

MCDERMOTT WILL & EMERY LLP

Darren Azman
Joseph B. Evans
J. Greer Griffith
Lucas B. Barrett
One Vanderbilt Avenue
New York, New York 10017-3852
Telephone: (212) 547-5400
Facsimile: (212) 547-5444

MCDERMOTT WILL & EMERY LLP

Gregg Steinman (admitted *pro hac vice*)
333 SE 2nd Avenue, Suite 4500
Miami, Florida 33131-2184
Telephone: (305) 329-4473
Facsimile: (305) 503-8805

*Counsel to the Genesis Crypto Creditors
Ad Hoc Group*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC., *et al.*,¹

)
) Chapter 11
)
) Case No. 23-10063 (SHL)
)
) (Jointly Administered)
)

**THE GENESIS CRYPTO CREDITORS AD HOC GROUP'S
MOTION *IN LIMINE* TO PRECLUDE EVIDENCE REGARDING THE
PROPOSED RELEASES AND THE SPECIAL COMMITTEE INVESTIGATION**

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's tax identification number (as applicable) are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); and Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

TABLE OF CONTENTS

Table of Contents	i
Table of Authorities.....	ii
PRELIMINARY STATEMENT.....	2
BACKGROUND	6
A. Mr. Aronzon and Mr. Sciametta are Deposed and Designated as Fact Witnesses.....	6
B. The Debtors Provide Conclusory Descriptions About the Special Committee Investigation in the Amended Disclosure Statement and the Plan Supplement.....	11
C. The Debtors Refuse to Produce Discovery to the CCAHG Related to the Proposed Releases and the Special Committee Investigation on the Basis of Privilege	15
D. The Debtors Continue to Seek the Court’s Approval of the Proposed Releases.....	17
ARGUMENT	20
A. The Sword and Shield Doctrine Requires Precluding the Debtors From Introducing Evidence Relating to the Proposed Releases and the Special Committee Investigation	20
B. The Debtors Should Be Precluded From Relying on Conclusions and Justifications for the Proposed Releases Based on the Special Committee Investigation	22
C. The Debtors Waived Privilege When They Disclosed the Special Committee Investigation Findings to Other Parties	24
CONCLUSION.....	25
CERTIFICATE OF SERVICE	27

TABLE OF AUTHORITIES

Cases	Page(s)
<i>B.C.F. Oil Ref., Inc. v. Consol. Edison Co. of New York</i> , 168 F.R.D. 161, 165 (S.D.N.Y. 1996)	20
<i>Cary Oil Co. v. MG Ref. & Mktg., Inc.</i> , 257 F. Supp. 2d 751 (S.D.N.Y. 2003).....	24
<i>Chesapeake Corp. v. Shore</i> , 771 A.2d 293 (Del. Ch. 2000).....	24
<i>In re Circle K Corp.</i> , 1996 WL 529399 (Bankr. S.D.N.Y. May 30, 1996), <i>aff'd</i> , 1997 WL 31197 (S.D.N.Y. Jan. 28, 1997).....	20
<i>Grunstein v. Silva</i> , 2012 WL 5868896 (Del. Ch. Nov. 20, 2012)	21, 22
<i>In re Horowitz</i> , 482 F.2d 72 (2d Cir. 1973).....	25
<i>Pfizer Inc. v. Warner-Lambert Co.</i> , 1999 WL 33236240 (Del. Ch. Dec. 8, 1999).....	21
<i>In re Quigley Co., Inc.</i> , 2009 WL 9034027 (Bankr. S.D.N.Y. Apr. 24, 2009).....	25
<i>In re Residential Capital, LLC</i> , 491 B.R. 63 (Bankr. S.D.N.Y. 2013).....	22, 23, 24
<i>In re Subpoena Issued to Dennis Friedman, Esq.</i> , 286 B.R. 505 (S.D.N.Y.2002).....	23
<i>United States v. Bilzerian</i> , 926 F.2d 1285 (2d Cir. 1991).....	20
Statutes	
11 U.S.C. § 105(a)	1

The Genesis Crypto Creditors Ad Hoc Group (the “CCAHG”), by and through its counsel, McDermott Will & Emery LLP (“McDermott”), hereby submits this motion *in limine* (the “Motion”), pursuant to section 105(a) of title 11 of the United States Code (the “Bankruptcy Code”), to preclude Genesis Global Holdco, LLC, Genesis Global Capital, LLC (“Genesis”), and Genesis Asia Pacific Pte. Ltd. (collectively, the “Debtors”), and the Special Committee of Board of Directors (the “Special Committee”) of Genesis Global Holdco, LLC, from presenting certain evidence at the plan confirmation hearing, including evidence concerning: (1) the proposed releases in the *Debtors Amended Joint Chapter 11 Plan* [Docket No. 1325] (as amended, modified, or supplemented from time to time, the “Amended Plan”) and the *Plan Supplement for the Debtors’ Amended Joint Chapter 11 Plan* [Docket No. 1117] (the “Plan Supplement”) (collectively, the “Proposed Releases”), and (2) the investigation conducted by the Special Committee (the “Special Committee Investigation”) as described in the *Amended Disclosure Statement With Respect to the Amended Joint Plan of Genesis Global Holdco, LLC Et Al., Under Chapter 11 of the Bankruptcy Code* [Docket No. 1031] (as amended, modified, or supplemented from time to time, the “Amended Disclosure Statement”), the *Debtors’ Memorandum of Law in Support of Confirmation and Omnibus Reply to Objections to Confirmation of the Plan of Reorganization of Genesis Global Holdco, LLC Et Al., Under Chapter 11 of the Bankruptcy Code* [Docket No. 1330] (the “Omnibus Reply”), the *Declaration of Paul Aronzon, Member of the Special Committee of Board of Directors of Genesis Global Holdco, LLC in Support of Confirmation of the Debtors’ Chapter 11 Plan* (the “Aronzon Declaration” or “Aronzon Decl.”) [Docket No. 1330, Exhibit D], and the Deposition of Paul Aronzon on January 31, 2024 (the “Aronzon Deposition”).

In support of this Motion, the CCAHG respectfully represents as follows:

PRELIMINARY STATEMENT

1. While relying on the so-called Special Committee’s investigation to support broad releases of more than 160 Genesis insiders, during a deposition Cleary Gottlieb Steen & Hamilton LLP (“Cleary”) inappropriately directed the Special Committee not to answer factual questions concerning that investigation no less than 94 times. The Debtors wrongly claim that those facts are cloaked in privilege because the Special Committee, who conducted zero interviews themselves, learned all the facts supporting the Proposed Releases from Cleary. Cleary—counsel to both the Special Committee and the Debtors—wants it both ways. Cleary wants to rely on the Special Committee’s conclusions that the Proposed Releases are appropriate while concurrently blocking access to any facts supposedly relied on by the Special Committee to reach those conclusions. Accordingly, this Court should preclude any declarations and testimony from the Special Committee and the Debtors’ financial advisors in support of and about the Proposed Releases and the Special Committee Investigation, specifically, the testimony and declarations of Paul Aronzon (“Mr. Aronzon”) and Mr. Sciametta (“Mr. Sciametta”).

2. According to Cleary, salient facts concerning the Proposed Releases are privileged solely because the Special Committee learned facts from Cleary, such as: (i) whether released insiders withdrew assets within 90-days prior to the Petition Date;² (ii) whether released insiders participated in lending funds to Three Arrows Capital;³ (iii) whether released insiders have consulting or other arrangements with Digital Currency Group, Inc. (“DCG”);⁴ (iv) whether released insiders participated in the decision-making or were involved with the Debtors lending to any DCG-owned entity;⁵ (v) whether released insiders decided not to

² Declaration of J. Greer Griffith, dated February 21, 2024 (the “Griffith Decl.”), Exhibit 3, Deposition of Paul Aronzon, January 31, 2024, the relevant portions of which are attached hereto (the “Aronzon Dep. Tr.”), 164:06–168:05.

³ Aronzon Dep. Tr. 194:18–196:05.

⁴ Aronzon Dep. Tr. 155:04–196:05.

⁵ Aronzon Dep. Tr. 185:19–188:22.

liquidate GBTC Grayscale ETF shares;⁶ and (vi) what benefit any of the Genesis insiders will deliver to the estate in exchange for being released.⁷ Each of those fact-questions are highly relevant to test whether the Proposed Releases are appropriate, yet Cleary blocked the CCAHG from discovering any such information.

3. Ninety-four (94) times during the deposition of Special Committee Member Paul Aronzon, the Debtors' counsel directed Mr. Aronzon not to answer questions seeking non-privileged, factual information about the Proposed Releases and the Special Committee Investigation. Ten (10) times the Debtors' counsel "cautioned" Mr. Aronzon not to answer questions on these same topics. Mr. Aronzon followed his counsel's improper advice for nearly every question.

4. On the rare occasion that Mr. Aronzon did answer a question instead of relying on an improper privilege objection, it was abundantly clear he was not equipped to testify about even basic facts. Indeed, Mr. Aronzon did not even know the number of individuals proposed to receive releases. He could not even state whether there was "more than a hundred" or "more than five hundred" individuals on the Released Genesis Personnel list.⁸

5. Aside from Cleary's obstruction, the Special Committee also is not competent to testify about the Special Committee Investigation or the Proposed Releases because the Special Committee has no personal, first-hand knowledge about these topics. The Special Committee was appointed to conduct an investigation but the Special Committee relied entirely on Cleary to conduct the investigation and to decide whether to consent to the Proposed Releases. Any Special Committee testimony would be based on multiple levels of hearsay because the Special Committee would be testifying about what Cleary told the Special Committee based on what Cleary learned in interviews of Genesis witnesses. Accordingly,

⁶ Aronzon Dep. Tr. 190:25–191:21.

⁷ Aronzon Dep. Tr. 201:07–202:12.

⁸ Aronzon Dep. Tr. 215:06–216:12

because the Special Committee has no personal, independent knowledge and failed to conduct any interviews themselves, there is no basis for Mr. Aronzon to be a fact witness concerning the Special Committee Investigation or the Proposed Releases.

6. Indeed, even when asked “was there any separate analysis done without counsel” about the Proposed Releases, Special Committee member Mr. Aronzon followed Cleary’s instructions to not answer the question on the basis of privilege.⁹

7. At the deposition of Mr. Sciametta, financial advisor to the Debtors, the Debtors’ counsel refused to allow the CCAHG’s counsel the opportunity to question Mr. Sciametta about whether he financially analyzed the Proposed Releases. The Debtors’ counsel contended that Mr. Sciametta was not prepared or designated to testify about these topics. There is thus no basis for Mr. Sciametta to be a fact witness concerning the Special Committee Investigation or the Proposed Releases.

8. In response to the CCAHG’s discovery requests served on the Debtors for the production of documents and interrogatories about the Proposed Releases and the Special Committee Investigation, the Debtors produced only a couple of documents that were both publicly-filed on the docket. The Debtors refused to produce other documents or respond to interrogatories on the basis of attorney client privilege and attorney work product.

9. It was not until the CCAHG learned that the Debtors had produced Special Committee meeting minutes to other parties – which were introduced as exhibits by DCG during a second deposition of Mr. Aronzon – that the Debtors agreed to produced Special Committee meeting minutes to the CCAHG. And, even then, the Debtors waited to produce these documents until 10:43 p.m. on February 20, 2024. The documents were also almost entirely redacted for privilege.

⁹ Aronzon Dep. Tr. 182:11-183:21.

10. The Amended Plan seeks to release an uncapped number of individuals and entities defined as a “Related Party”, *see* Amended Plan ¶ 191,¹⁰ and the Plan Supplement seeks to release more than 160 current and former executives, directors, managers, officers, and employees of the Debtors (“Released Genesis Personnel”).

11. The Debtors have indicated that they are designating Mr. Aronzon and Mr. Sciametta as witnesses at the plan confirmation hearing. They also have filed the Aronzon Declaration in support of the Amended Plan. That Declaration contains completely untested conclusions that releases are appropriate.

12. Because Cleary blocked Mr. Sciametta and Mr. Aronzon from providing non-privileged, factual information about the Proposed Releases and the Special Committee Investigation, the Court should preclude the Debtors from offering any evidence at the plan confirmation hearing—including testimony from Mr. Sciametta and Mr. Aronzon and the Aronzon Declaration—concerning the Proposed Releases and the Special Committee Investigation.

13. In the Omnibus Reply and Aronzon Declaration – filed after the close of discovery and the Aronzon Deposition – the Debtors stated for the first time that they “intend to modify the Plan to provide releases only to Released Genesis Personnel who agree to cooperate with assisting with litigation of the Retained Causes of Action by the Wind-Down

¹⁰ The Amended Plan, Paragraph 191, states: “Released Party” means (i) the Debtors, (ii) the Ad Hoc Group SteerCo and its members (solely in their capacities as such), (iii) the Committee and its members (solely in their capacities as such), and (iv) each Related Party of each Entity described in the foregoing clauses (i)–(iii) (in each case, solely in its capacity as such); provided, however, that, notwithstanding anything to the contrary in the Plan, neither the DCG Parties nor any of the former employees, officers, or directors of the Debtors as of the Petition Date shall be Released Parties; and, provided, further, that any of the current or former employees, officers, or directors of the Debtors (solely in such Person’s capacity as such) who served as an employee, officer, or director of the Debtors from or after the Petition Date, including any employees of GGT who served or functioned as employees of a Debtor pursuant to a shared services agreement or a similar arrangement (solely in their capacities as such) as of the Petition Date, shall be a Released Party only with the prior written consent and justifications of the Special Committee, which justifications shall be set forth in the Plan Supplement and which Persons shall be provided to the Ad Hoc Group Counsel and the Committee Counsel on a confidential, professional-eyes-only, basis, with the express exception of any current or former employees, officers, and directors of the Debtors who served as employees, officers, or directors of the Debtors as of the Petition Date and are or were also DCG Parties, which Persons shall not be Released Parties.

Debtors (such agreements, the “Cooperation Agreements”).” Despite the CCAHG’s requests, it has received no information at all concerning those Cooperation Agreements and thus has no factual basis to determine whether that is a sufficient benefit to the estate to warrant releases. This is because Cleary blocked the CCAHG from any facts from which we could discern the value of any potential claims against the Released Parties.

BACKGROUND

14. Recognizing the Court’s general familiarity with these chapter 11 proceedings, the CCAHG’s focus here is on the background regarding the evidence and testimony that the Special Committee and the Debtors intend to use at the plan confirmation hearing concerning the Proposed Releases and the Special Committee Investigation.

A. Mr. Aronzon and Mr. Sciametta are Deposed and Designated as Fact Witnesses

15. On December 6, 2023, this Court entered the *Order Authorizing Debtors’ Motion to Approve (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices and Notice Procedures in Connection Therewith, and (IV) Certain Dates with Respect Thereto* [Docket No. 1027] (the “Scheduling Order”). On January 5, 2024, pursuant to the Scheduling Order, the Debtors served the *Debtors’ Amended Witness List in Connection with the Confirmation Hearing* (the “Witness List”). See Griffith Decl., Exhibit 1. Among others, the Witness List identified Joseph Sciametta, Managing Director at Alvarez & Marsal North America, LLC, and Paul Aronzon, in his capacity as a member of the Special Committee, as fact witnesses in support of plan confirmation. *Id.*

16. On January 30, 2024, Mr. Sciametta was deposed as one of the Debtors’ 30(b)(6) designees and in his capacity as Managing Director at Alvarez & Marsal North America, LLC—the Debtors’ financial advisor (the “Sciametta Deposition”). See Griffith Decl., Exhibit

2, Deposition of Joseph Sciametta, Jan. 30, 2024, the relevant portions of which are attached hereto (the “Sciametta Dep. Tr.”).

17. Counsel for the CCAHG was prepared to examine Mr. Sciametta concerning his financial analysis of the Proposed Releases and the value of the Proposed Releases to the Debtors’ estates, but his counsel refused to let him testify about these topics.

Q: Okay. I’m going to direct your attention to Exhibit F [of the Plan Supplement], which is at the end of it. And Exhibit F is titled “Justification for Exculpated & Released Parties.”

A: Okay.

Q: And the majority of my questions this evening are going to be about the releases. So, in this first paragraph, it refers to a defined term, the released Genesis personnel?

MS. VANLARE: I’m going to object. This is outside the scope of the 30(b)(6) testimony.

MS. GRIFFITH: I disagree. We noticed a 30(b)(6) witness for the debtors and this would fall under topic 14, I believe, of that.¹¹

Q: Are you prepared to talk about topic 15 in DCG’s Notice of deposition, claims by the Genesis Crypto Creditors Ad Hoc Group including your assessment and valuation of such claims under the plan and the impact of any objections to the plan are the Genesis Crypto Creditors Ad Hoc Group on potential recoveries?

MS. VANLARE: Counsel, as is made clear in our responses and objections, the debtors will not designate a witness to provide testimony with respect to this topic.

Q: How about topic 14, your communications with any member of the Genesis Crypto Creditors Ad Hoc Group or the representative concerning, without limitation, any anticipated objection to the plan, the basis for such objection and any analysis under 11USC562?

MS. VANLARE: The debtors have designated Mr. Paul Aaronson (*sic*) on that topic. Mr. Sciametta has not been designated on that topic.¹²

¹¹ Sciametta Dep. Tr. 280:08–280:21.

¹² Sciametta Dep. Tr. 284:01–284:23.

Q: Have you evaluated in any way the value of the releases under the plan?

MS. VANLARE: Objection. I will instruct the witness not to answer for all the reasons that I've articulated. This is outside the scope. Again, I don't want to repeat myself. But again, it's outside the scope of any topics that he has been designated for and he has not been noticed in his personal capacity.

Q: Are you going to follow your counsel's instruction or are you able to answer the questions?

A: I'll follow my counsel's instruction.¹³

18. On January 31, 2024, Mr. Aronzon was deposed as another one of the Debtors' 30(b)(6) designees and in his capacity as a Special Committee member (the "Aronzon Deposition"). *See* Griffith Decl., Exhibit 3, Deposition of Paul Aronzon, January 31, 2024, the relevant portions of which are attached hereto (the "Aronzon Dep. Tr.").

19. Counsel for the CCAHG examined Mr. Aronzon, seeking non-privileged, factual information about the Special Committee's Investigation, the Proposed Releases, and the basis for the Special Committee's decision to approve the broad Proposed Releases. Cleary Gottlieb Steen & Hamilton LLP ("Cleary")—counsel to both the Debtors and the Special Committee—objected to nearly every question.

20. During the course of the CCAHG counsel's examination of Mr. Aronzon, Cleary objected on the basis of attorney-client privilege more than 110 times, objected on the basis of attorney work product more than 50 times, directed Mr. Aronzon not to answer questions 94 times, and "cautioned" Mr. Aronzon to not answer questions 10 times. Mr. Aronzon followed his counsel's advice for nearly every question. *See generally* Griffith Decl., Exhibit 3.

21. Cleary's improper and near constant objections were intended to prevent the CCAHG and other interested parties from obtaining any relevant information—even basic *factual* information. This is evident in a myriad of examples, including these representative colloquies:

¹³ Sciametta Dep. Tr. 284:24–285:13.

Q: Is it the special committee's contention that the releases contemplated in the plan are appropriate?

MS. VANLARE: Objection. You may answer to the extent you can without revealing any attorney-client communication or attorney work product.

THE WITNESS: Yes.

Q: Can you please explain each and every fact that you rely on to come to that conclusion?

MS. VANLARE: Objection. That calls for attorney-client communication and attorney work product, and as such, I would instruct the witness not to answer.

Q: Are you following your counsel's direction?

A: Yes.¹⁴

Q: So as a special committee member charged with authorizing releases in this matter, how did you feel comfortable that all of the people and entity that would fall under the definition of related party warrant a release?

MS. VANLARE: Objection. Objection to form and objection to the extent the answer calls for privileged communications. I would instruct the witness not to answer to the extent your answer would involve any attorney-client communications or attorney work product.

THE WITNESS: I can't really answer the specific questions without referring to the discussions with our counsel.¹⁵

Q: So did the special committee independently, separate from communications with counsel, consider whether releases of current or former employees should be granted? Did it make an independent decision separate from counsel?

MS. VANLARE: Objection. To the extent that the question calls for any attorney-client privileged communications or attorney work product, I would instruct you not to answer.

Q: Are you going to answer the question?

A: I'm not sure how to answer it.

Q: The special committee provided written consent for the release of certain former and current Genesis personnel; correct?

¹⁴ Aronzon Dep. Tr. 251:06–252:12.

¹⁵ Aronzon Dep. Tr. 244:15–245:10.

A: That is exactly what the disclosure statement says.

Q: And do you know that in your personal capacity separate and aside from just reading this piece of paper?

A: Yes.

Q: And let's talk about the process for that. What is involved with you giving written consent?

MS. VANLARE: Objection.

THE WITNESS: I don't know how to answer this without talking about all the things we discussed with counsel.¹⁶

22. When Cleary did permit Mr. Aronzon to answer a question, it was abundantly clear he was not equipped to testify about even basic facts concerning the Proposed Releases.

For example:

Q: There are more than a hundred individuals currently on the released Genesis personnel list; correct?

MS. VANLARE: Objection. I don't know if you know as a fact matter. You may answer. But otherwise, to the extent it calls for attorney-client communication or attorney work product, I would instruct you not to answer.

THE WITNESS: I don't know the exact number.

Q: Do you know if it's more than a hundred individuals on the Genesis released personnel list?

MS. VANLARE: Same objection. And to the extent what you know comes from conversation with counsel, I would instruct you not to answer that question.

THE WITNESS: I don't know.

Q: Do you know if it's more than five hundred people on the released Genesis personnel list?

MS. VANLARE: Same objection. To the extent any information you have on this comes from counsel, I'm going to instruct you not to answer.

THE WITNESS: I don't know the number.¹⁷

¹⁶ Aronzon Dep. Tr. 180:03–181:13.

¹⁷ Aronzon Dep. Tr. 215:06–216:12.

23. The CCAHG was not the only creditor that was blocked from obtaining even basic factual information about the Proposed Releases from Mr. Aronzon. When counsel for another creditor, BAO Family Holdings, also attempted to examine Mr. Aronzon about the Proposed Releases, Cleary again objected on privilege grounds and instructed Mr. Aronzon not to answer the questions.¹⁸

24. On February 6, 2024, the Debtors notified interested parties that they were designating Mr. Sciametta and Mr. Aronzon as fact witnesses for the plan confirmation hearing. Griffith Decl., Exhibit 4.

B. The Debtors Provide Conclusory Descriptions About the Special Committee Investigation in the Amended Disclosure Statement and the Plan Supplement

25. On December 6, 2023, the Debtors filed the Amended Disclosure Statement which contained a conclusory description of the Special Committee Investigation. *See* Docket No. 1031. The Amended Disclosure Statement contained the following explanation about the formation and responsibilities of the Special Committee:

On November 18, 2022, the Holdco Board of Directors established the Special Committee, comprised of Paul Aronzon and Tom Conheaney, **with responsibility for making all decisions relating to the liquidity and restructuring of Holdco and its subsidiaries**. As part of its mandate, the Special Committee was charged with evaluating and approving transactions with affiliates including DCG Parties and investigating the Debtors' relationships and transactions with DCG Parties. One of the primary purposes of this investigation has been to assess whether the Debtors have potentially viable claims against the DCG Parties and to assist the Special Committee in the exercise of its fiduciary duties.

Id. at 50–51 (emphasis added).

26. The Amended Disclosure Statement said that the Special Committee retained Cleary to commence an investigation “into the relationships and transactions between or among the Debtors and various DCG Parties.” *Id.* at 51. The Amended Disclosure Statement stated that, over the course of the Special Committee Investigation, Cleary “reviewed 294,000

¹⁸ Aronzon Dep. Tr. 272:06–275:21.

documents and communications,” “conducted more than 30 interviews with approximately twelve current and former employees,” and “received over 50,000 documents from DCG.” *Id.*

27. In the Aronzon Deposition, Mr. Aronzon repeatedly refused to provide any non-privileged, factual information about the Special Committee Investigation. The following are some representative examples:

Q: Did you review any transcripts of these interviews?

MS. VANLARE: Objection. Again, I’m going to instruct the witness not to answer as this goes into the details of the investigation which are all privileged.

MS. GRIFFITH: On what basis is whether Mr. Aronzon, who’s a special committee member who’s tasked with evaluating whether individuals should be released privileged if he reviewed an interview transcript? I’m not asking his thoughts or analysis of the interview transcript, I’m asking whether he reviewed it.

MS. VANLARE: Counsel, you’re asking questions that relate to the conduct of an investigation that was done by counsel and you’re asking about actions and conversations and events that took place in the context of a—again an investigation that is attorney-client communication and/or attorney work product.

Q: So are you refusing to answer the question of whether the special committee reviewed any interview transcripts?

MS. VANLARE: Again, objection. The witness is not refusing. I’m instructing the witness not to answer for the reasons that I identified earlier.

Q: And just so the record is clear, are you refusing to identify which witnesses were interviewed as part of the special committee investigation that are listed here in the paragraph in the amended disclosure statement that we looked at?

MS. VANLARE: Objection. Again, as stated previously, the witness is not refusing. I am instructing the witness not to answer, however, for the reasons I identified earlier in that it calls for attorney-client communication and attorney work product and is therefore privileged information.

Q: And are you going to take your counsel’s advice, Mr. Aronzon?

A: I always do.¹⁹

¹⁹ Aronzon Dep. Tr. 151:03–153:07.

Q: Was anyone that was interviewed not a current or former employee of Genesis?

MS. VANLARE: Objection. Once again, the question calls for privileged information. I would instruct the witness not to answer.

Q. Are you doing to answer the question, Mr. Aronzon.

A. No.²⁰

28. The Amended Disclosure Statement states that, beyond the limited public disclosures being made, “Cleary has shared the findings from the Investigation with the Special Committee and counsel to the UCC and the Ad Hoc Group.” *Id.* After the Aronzon Deposition, counsel for the CCAHG repeated its request that the Debtors share “the findings from the Investigation” referenced in the Amended Disclosure Statement as this information is responsive to the CCAHG’s discovery requests served on the Debtors. Griffith Decl., Exhibit 5. Cleary responded, “We will not be providing the findings from the investigation or information related to the interviews in connection with the investigation as these are privileged information, as objected to during Mr. Aronzon’s deposition as well.” *Id.* Cleary’s objection was particularly inappropriate here as Cleary already waived this privilege when it shared these findings with the UCC and the Ad Hoc Group as discussed in more detail herein.

29. On December 29, 2023, the Debtors filed a Plan Supplement. *See* Docket No. 1117. Exhibit F to the Plan Supplement was titled “Justification for Exculpated & Released Parties.” *Id.*

30. The Plan Supplement enumerated that the Special Committee had the responsibility of independently deciding whether to approve the Proposed Releases of the Released Genesis Personnel. Specifically, the Plan Supplement stated:

In accordance with the Debtors’ Amended Joint Chapter 11 Plan (the “Amended Plan”), ***the Special Committee has, subject to the reservation of rights set forth herein, provided its prior written consent*** for the release of current or former employees, officers and directors of the Debtors (solely in such Person’s capacity as such) who served as an employee, officer or director of the Debtors

²⁰ Aronzon Dep. Tr. 153:21–154:06.

from or after the Petition Date, including any employees of GGT who served or functioned as employees of a Debtor pursuant to a shared services agreement (solely in their capacities as such) as of the Petition Date, whose identities have been or will be provided, in writing, to the Ad Hoc Group Counsel and Committee Counsel on a confidential, professional-eyes-only basis on or prior to the Effective Date (the Persons covered by such release, collectively, the “Released Genesis Personnel”). For the avoidance of doubt, none of the Released Genesis Personnel are or were also DCG Parties.

Id. at 21 (emphasis added).

31. The Plan Supplement had seven bullet points setting forth conclusory “justifications for the release of the Released Genesis Personnel.” *Id.* at 22. Clearly again directed Mr. Aronzon to not answer the majority of the questions seeking non-privileged, factual information about these justifications. For example:

Q: The next bullet point states “the released Genesis personnel have knowledge and insight into the debtors’ business and transactions that may be critical to the resolution of litigation against the DCG parties and the Gemini parties as well as various regulatory and enforcement actions relating to the debtors’ prepetition business”. Do you see that?

A: Yes.

Q: Do you know – and this is a number, not who, a number – how many of the individuals on the released Genesis personnel list have this knowledge and insight?

MS. VANLARE: Objection. I believe the answer calls for privileged information with counsel and attorney work product, and as such, I’m going to instruct the witness not to answer.

Q: Are you following the direction of your counsel?

A: Yes.

...

Q: Do you know if any of the individuals on the released Genesis personnel list have overlapping “knowledge and insight into the debtors’ business and transactions[”]? ”

MS. VANLARE: Objection to form, but also I would instruct the witness not to answer to the extent it reveals any attorney-client communication or attorney work product.

Q: Are you following your counsel’s direction?

A: Yes.

...

Q: Have any of the individuals on the released Genesis personnel list refused to cooperate with resolution of litigation against the DCG parties and the Gemini parties as well as various regulatory and enforcement actions relating to the debtors' prepetition business unless they received released?

MS. VANLARE: Objection. I'm going to – to the extent it reveals attorney-client privilege, attorney work product, I'm going to instruct the witness not to answer.

Q: Is this a factor that you considered in granting consent to these individuals?

MS. VANLARE: Same objection. Calls for privileged information and attorney work product.

Q: Are you going to follow your counsel's advice?

A: Yes.²¹

C. The Debtors Refuse to Produce Discovery to the CCAHG Related to the Proposed Releases and the Special Committee Investigation on the Basis of Privilege

32. On January 17, 2024, the CCAHG served Genesis Crypto Creditors Ad Hoc Group's *Second Requests for Production of Documents to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.* (the "RFPs") and *Genesis Crypto Creditors Ad Hoc Group's Interrogatories to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.* (the "Interrogatories"). See Griffith Decl., Exhibit 6. These RFPs and Interrogatories sought factual information about the Special Committee Investigation, the basis for the Special Committee's decision to approve the Proposed Releases, and the Proposed Releases.

33. On January 30, 2024, the night before the Aronzon Deposition, the Debtors served the Debtors' Responses and Objections to Genesis Crypto Creditors Ad Hoc Group's Second Requests for Production of Documents (the "Debtors' R&Os to RFPs"). See Griffith Decl., Exhibit 7. The Debtors' accompanying document production included a mere two documents—copies of the Debtors' bankruptcy petitions filed publicly at Docket Nos. 3 and

²¹ Aronzon Dep. Tr. 211:14-215:05.

27 of the above-captioned matter. These documents were produced at 10:50 PM the night before the Aronzon Deposition. See Griffith Decl., Exhibit 8.

34. The Debtors did not produce any other documents in response to the RFPs. The Debtors objected to production of the requested discovery on the basis that the information sought was “protected from disclosure by the attorney-client privilege, the work product doctrine, common interest privilege, or any other applicable privilege or protection from discovery.” *Id.* For example:

- Request No. 6: All Documents and Communications Concerning investigations of any Released Party, any Released Genesis Personnel, and any Special Committee member conducted by the Estate, the UCC, or any other Person.

Response to Request No. 6: . . . The Debtors further object to this Request to the extent that it seeks the production of Privileged Information The Debtors further object to this Request to the extent it . . . calls for publicly available information, including information in the [Disclosure Statement]. *Id.*

- Request No. 10: All copies of investigation interviews, deposition transcripts, sworn statements, or any other written or oral statements provided by any of the Released Parties and any of the Released Genesis Personnel in connection with any internal or external investigation that occurred

Response to Request No. 10: . . . The Debtors further object to this Request . . . to the extent that such material is protected by the work product, investigative or other privilege. *Id.*

35. Also on January 30, 2024, the night before the Aronzon Deposition, the Debtors served the Debtors’ Responses and Objections to Genesis Crypto Creditors Ad Hoc Group’s First Set of Interrogatories to the Debtors (the “Debtors’ R&Os to Interrogatories”). Griffith Decl., Exhibit 7. The Debtors again refused to provide a response to the majority of the Interrogatories on the basis of privilege. *Id.* For example:

- Interrogatory No. 2: Provide a description of the investigation(s) conducted Concerning each Released Party, including the identities of the Person(s) that conducted the investigation, the number of Documents reviewed, number of interviews conducted, the causes of action investigated, the findings of the

investigation, and identify any investigative reports or memorandum containing the findings of the investigation.

Response to Interrogatory No. 2:. . . The Debtors further object to this Interrogatory to the extent that it seeks Privileged Information. The Debtors further object to this Interrogatory on the grounds that it calls for publicly available information, including information in the Disclosure Statement. For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

- Interrogatory No. 4: For each Released Party, Released Genesis Personnel, and Special Committee member, Identify the reasons for the Releases, including the benefit the Estate will receive from providing the Releases.

Response to Interrogatory No. 4:. . . The Debtors further object to this Interrogatory to the extent that it seeks Privileged Information... For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

36. At another deposition of Mr. Aronzon, conducted on February 16, 2024, DCG introduced Special Committee meeting minutes as exhibits. This made it abundantly clear that the Debtors had Special Committee meeting minutes in their possession which they produced to other parties but failed to produce to the CCAHG. After the deposition, CCAHG repeated its request that the Debtors produce “all Special Committee meeting minutes, notes, and memos” given their responsiveness to the RFPs. *See* Griffith Decl., Exhibit 10. In response, Cleary indicated for the first time its intent to produce “minutes from special committee meetings to the extent responsive to the second set of requests.” *Id.*

37. At 10:43 p.m. on February 20, 2024, Cleary “produced” nine Special Committee meeting minutes. *See* Griffith Decl., Ex 11. These documents were almost entirely redacted for privilege except for the date and time of the meeting, attendees, and—in one sole instance—the stand alone phrase “released parties”. *Id.* ¶ 13.

D. The Debtors Continue to Seek the Court’s Approval of the Proposed Releases

38. Counsel for the CCAHG informed the Debtors of its intent to file this Motion by email on February 7, 2024. *See* Griffith Decl., Exhibit 4. In that email, counsel for the

CCAHG offered to meet-and-confer to explore reasonable solutions that might obviate the filing of this Motion. *Id.*

39. On February 16, 2024, the Debtors filed the Omnibus Reply, attaching as exhibits the *Declaration of Joseph J. Sciametta, Managing Declaration of Alvarez & Marsal North America LLC, in Support of Confirmation of the Debtors' Amended Joint Chapter 11 Plan* (the “Sciametta Declaration”) and the Aronzon Declaration. *See* Docket No. 1330.

40. The Aronzon Declaration contains new, conclusory statements concerning the Proposed Releases and the Special Investigation that should be precluded as evidence based on the repeated invocation of privilege during Mr. Aronzon’s deposition about the very same topics. For example, Mr. Aronzon refers to previously filed statements in Exhibit F of the Plan Supplement [Docket No. 1117] and Sections III.W and VI.F of the Amended Disclosure Statement [Docket No. 1031]. Mr. Aronzon declared:

Each of these provisions provide for and describe the justification for these releases and the process that preceded their approval. I believe those documents are a fair and accurate representation of the process that led to the Special Committee’s approval of the releases of Released Genesis Personnel and the justifications for that decision.

Aronzon Decl, ¶ 83. Counsel for the CCAHG sought to proactively test a proposition like this during the Aronzon Deposition but was blocked from doing so.²²

41. Similarly, Mr. Aronzon stated in the Aronzon Declaration:

The Special Committee has investigated and analyze potential litigation Causes of Action against various parties, including, but not limited to, preferences. The Special Committee carefully considered the merits and defenses in respect of Causes of Action related to preferences prior to granting release or waiver of any resolved Preference Claims

42. Aronzon Decl. ¶ 89. Counsel for the CCAHG anticipated a statement like this and sought to openly depose Mr. Aronzon concerning this topic. However, Cleary had denied

²² *See, e.g.*, Aronzon Dep. Tr. 181:05–181:13. “Q: And let’s talk about the process for that. What is involved with you giving written consent? MS. VANLARE: Objection. THE WITNESS: I don’t know how to answer this without talking about all the things we discussed with counsel.”

the CCAHG the opportunity to examine Mr. Aronzon on this topic by improperly invoking privilege.²³

43. For the first time in the course of these proceedings, the Debtors also raised the concept of “Cooperation Agreements”. The Debtors’ Omnibus Reply states:

The Debtors intend to modify the Plan to provide releases only to those Released Genesis Personnel who agree to cooperate with assisting with litigation of the Retained Causes of Action by the Wind-Down Debtors (such agreements, the “Cooperation Agreements”), which will be critical to the resolution of litigation against DCG and Gemini as well as enforcement actions relating to the Debtors’ pre-petition business.

See Omnibus Reply ¶ 72. Mr. Aronzon’s Declaration states:

I also understand that, in order to be considered a “Released Genesis Personnel,” each potential releasee will need to have executed an agreement to cooperate with assisting with litigation of the Retained Causes of Action by the Wind-Down Debtors (such agreements, the “Cooperation Agreements”), which will ensure the Debtors are able to rely on the knowledge and services of many of the Released Parties Post-Effective Date.

Aronzon Decl. ¶ 84.

44. The CCAHG and any other interested party could not examine or seek discovery about these Cooperation Agreements as they were brought up only *after* Mr. Aronzon’s deposition. Despite this, the CCAHG sent an e-mail to the Debtors requesting information about these Cooperation Agreements and the intended modification to the Amended Plan. See Griffith Decl., Exhibit 9. However, as of the filing of this Motion, the Debtors have informed the CCAHG that they “are not in a position at this moment to provide further details”. *Id.*

45. By announcing the Cooperation Agreements for the first time in the Omnibus Reply and its supporting Aronzon Declaration—well after the close of the scheduled discovery period—the Debtors have yet again denied creditors the ability to investigate the sufficiency of the Proposed Releases in the Amended Plan and Plan Supplement.

²³ See, e.g., Aronzon Dep. Tr. 162:13-152:25. “Q: Do you know if any of the individuals that are currently set to receive releases have preference liability to the estate?” MS. VANLARE: Objection. Attorney-client privilege and work product. I would instruct the witness not to answer. Q: Are you going to answer the question? A. I was waiting for you to ask. No, I’m not.”

ARGUMENT

A. The Sword and Shield Doctrine Requires Precluding the Debtors From Introducing Evidence Relating to the Proposed Releases and the Special Committee Investigation

46. Privilege cannot be used as a sword and a shield. *See United States v. Bilzerian*, 926 F.2d 1285, 1292 (2d Cir. 1991); *see also In re Circle K Corp.*, 1996 WL 529399, at *4 (Bankr. S.D.N.Y. May 30, 1996), *aff'd*, 1997 WL 31197 (S.D.N.Y. Jan. 28, 1997) (“A client cannot use the privilege as both a sword and a shield. Thus, the client waives the privilege when he places the privileged communication at issue, and fairness requires that it be disclosed to the adversary.”).

47. Cleary inappropriately refused to permit Mr. Aronzon to provide non-privileged, factual responses to questions posed during his deposition about the Proposed Releases and the Special Committee Investigation. But “the attorney-client privilege simply does not extend to facts known to a party that are central to that party’s claims, even if such facts came to be known through communications with counsel who had obtained knowledge of those facts through an investigation into the underlying dispute.” *See B.C.F. Oil Ref., Inc. v. Consol. Edison Co. of New York*, 168 F.R.D. 161, 165 (S.D.N.Y. 1996).

48. Even a cursory review of the Aronzon Deposition transcript makes it abundantly clear that Cleary inappropriately directed Mr. Aronzon to not respond to factual questions on the basis of privilege and that Mr. Aronzon followed his counsel’s instructions. *See Griffith Decl., Ex. 3*. For example:

Q: In addition to the information in the plan supplement and the disclosure statement, what facts did you rely on in deciding that the releases in the plan are appropriate?

MS. VANLARE: Objection. Calls for attorney-client communication and attorney work product and, as such, I would instruct the witness not to answer.

...

MS. VANLARE: [...] The scope of the investigation is attorney work product. Any communications that may have occurred between counsel and the witness are privileged communications and, as such, questions that call for the witness

to reveal any of that information are not allowed, and I am instructing the witness not to answer them.

MS. GRIFFITH: And to be clear, for the record, I am not asking about your communications with counsel, I am asking about the underlying facts which are not privileged information that you considered and relied on in coming to the conclusion that the releases contemplated in the plan are appropriate.²⁴

Thereafter, Cleary directed Mr. Aronzon to not answer the question seeing factual information on the basis of privilege and Mr. Aronzon followed his counsel's instructions.²⁵

49. Moreover, where, as here, witnesses offer conclusory assertions but withhold factual information about the basis for those assertions on privilege grounds, the conclusory assertions should be precluded. *See Pfizer Inc. v. Warner-Lambert Co.*, 1999 WL 33236240, at *1 (Del. Ch. Dec. 8, 1999) (discussing that “a party cannot take a position in litigation and then erect the attorney-client privilege in order to shield itself from discovery by an adverse party who challenges that position.”).

50. In *Grunstein v. Silva*, 2012 WL 5868896, at *1 (Del. Ch. Nov. 20, 2012), the defendants/counterclaimants raised attorney client privilege as a shield during the litigation to avoid disclosing the basis for their claims. The *Grunstein* court discussed that decisions involving the “‘sword and shield’ concept have precluded a party from shielding evidence from an opposing party and then relying on the evidence at trial to meet its burden of proof on an issue central to the resolution of the parties’ dispute.” *Id.* (internal quotations omitted). The *Grunstein* court granted plaintiff’s motion *in limine* precluding evidence the defendant shielded from discovery based on privilege.

51. The Debtors made a strategic choice to obstruct the CCAHG from receiving discovery about the conclusory justifications and basis for the Proposed Releases based on frequent invocations of the attorney client privilege. “Because [the Special Committee’s] knowledge and understanding of these issues are based on the advice of counsel, the Court

²⁴ Aronzon Dep. Tr. 254:14-258:25.

²⁵ *Id.*

[should] not allow [the Debtors] to use this evidence when [creditors] have been shielded from it.” *Grunstein*, 2012 WL 5868896, at *1. Any arguments that the Mr. Aronzon “should be permitted to testify as to his own understanding of the privileged communications would circumvent the sword and shield doctrine. Such a result would hinder [creditors’] ability to contest [the Debtors’] claims.” *Id.*

52. Notions of fairness are critical at this juncture. The Debtors, having impermissibly used privilege to shield themselves from discovery about non-privileged, factual information concerning the Proposed Releases and the Special Committee Investigation, should be precluded from introducing evidence and testimony on these topics.

B. The Debtors Should Be Precluded From Relying on Conclusions and Justifications for the Proposed Releases Based on the Special Committee Investigation

53. The Debtors should not be permitted to selectively disclose and rely upon documents and information about the Special Committee Investigation and its counsel’s oversight and involvement therein, while also claiming privilege as to the full set of materials relevant to such investigation. This violates well-settled case law and fundamental fairness. *See In re Residential Capital, LLC*, 491 B.R. 63, 68 (Bankr. S.D.N.Y. 2013) (a party may not use privilege to “prejudice his opponent’s case or to disclose some selected communications for self-serving purposes.”).

54. “A party who argues that it made a business decision because of its reliance on counsel, regardless of whether it is asserted as a ‘defense’ to a ‘due care’ challenge, still waives its attorney-client privilege by placing its reliance on counsel directly at issue.” *See In re Residential Capital, LLC*, at 71. *See also In re Subpoena Issued to Dennis Friedman, Esq.*, 286 B.R. 505, 509 n. 4 (S.D.N.Y.2002) (stating that directors who proposed to use advice of counsel to substantiate their due care “created the situation where their attorney's advice is both relevant and possibly crucial to the plaintiff's preparation of its case”).

55. Here, for example, in the Plan Supplement, the Debtors concluded that: “[t]he Special Committee’s investigation has not identified wrongdoing on the part of the Released Genesis Personnel that would give rise to Claims or Causes of Action that are likely to provide value to the Debtors’ Estates.” *See* Docket No. 1117, at 22. But this conclusory statement raises far more questions than it answers. It demands scrutiny of: (i) what claims were investigated; (ii) the extent of the investigation into such claims; (iii) whether the cost to pursue the claims would exceed the benefits; and (iv) the value that the Proposed Releases are providing to the estates. Yet, Mr. Aronzon refused to answer questions exploring these areas of inquiry based on privilege.

56. Moreover, despite contentions to the contrary from Cleary during the discovery process, sufficient information about the Special Committee Investigation is not publicly available on the docket. The information that is available in these dockets is conclusory, sparse, and vague. Indeed, even Mr. Aronzon – the Special Committee Member charged with approving the Proposed Releases – did not know how many individuals were on the Released Genesis Personnel list.²⁶ Without access to the Special Committee Investigation findings and underlying facts, creditors are unable to fully test whether granting Proposed Releases is in the best interest of the Debtors’ estates and adds value to the Debtors’ estates.

57. The matter of *In re Residential Capital, LLC* is instructive. In that case, an Unsecured Creditors Committee (the “Residential Capital Committee”) objected to a settlement approved by the directors of a bankrupt organization. *See Residential Capital*, 491 B.R. at 65–66. The Residential Capital Committee sought written discovery and depositions concerning the evaluation and approval of the decision to approve the settlement. *Id.* In response, the Debtors withheld thousands of documents on the basis of attorney-client privilege and asserted the same objection during the depositions of the Debtors’ witnesses. *Id.* During

²⁶ *See* Aronzon Dep. 215:06–216:12.

a hearing on the issue of privilege, the Court informed the Debtors' counsel: "You're going to have a real problem if you're going to assert privilege with respect to communications from counsel that form any part of the basis for directors approving the settlement." *Id.* at 66. The *Residential Capital* court recognized that "a court should exclude any testimony or evidentiary presentations by the Defendants at trial if that same testimony or evidence was withheld from Plaintiffs during discovery based on attorney-client privilege." *Residential Capital*, 491 B.R. at 68 (quoting *Cary Oil Co. v. MG Ref. & Mktg., Inc.*, 257 F. Supp. 2d 751 (S.D.N.Y. 2003)).

58. The court in *Chesapeake Corp. v. Shore*, 771 A.2d 293, 301 (Del. Ch. 2000), reached a similar conclusion. Defendants had invoked the attorney-client privilege to block from discovery much of the professional advice they had received in their capacity as directors of a corporation's board. *Id.* Those same defendants later argued that the board of directors had considered several pieces of information that the opposing party not been able to receive in discovery. *Id.* The *Chesapeake Corp.* court condemned that tactic as "inequitable" and refused to consider any evidence concerning the professional advice that had been given to the board. *Id.* at 301, n.8.

59. The Debtors here should be precluded from introducing evidence that pertain to conclusions and justifications about the Proposed Releases since the Special Committee information about the investigation was withheld during discovery and depositions.

C. The Debtors Waived Privilege When They Disclosed the Special Committee Investigation Findings to Other Parties

60. Privilege is waived when information is disclosed outside of the attorney-client relationship. *See In re Horowitz*, 482 F.2d 72, 81 (2d Cir. 1973) ("[S]ubsequent disclosure to a third party by the party of a communication with his attorney eliminates whatever privilege the communication originally possessed"); *In re Quigley Co., Inc.*, 2009 WL 9034027, at *3 (Bankr. S.D.N.Y. Apr. 24, 2009), *supplemented*, 2009 WL 2913450 (Bankr. S.D.N.Y. June 19, 2009) ("As a rule, the attorney-client privilege is waived when a protected communication

is disclosed to a third party.”). Work product privilege is similarly waived when such information is disclosed to third parties. *In re Quigley Co., Inc.*, No. 04-15739 SMB, 2009 WL 9034027, at *8 (Bankr. S.D.N.Y. Apr. 24, 2009), *supplemented*, No. 04-15739 (SMB), 2009 WL 2913450 (Bankr. S.D.N.Y. June 19, 2009) (“Waiver of work-product immunity is found whenever a party has disclosed the work-product in such a manner that it is likely to be revealed to his adversary.”) (internal quotation marks and citation omitted).

61. The Debtors and the Special Committee waived any privilege that may have existed concerning the Proposed Releases and the Special Committee when they shared the Special Committee Investigation’s findings with other parties, specifically the UCC and the Ad Hoc Group. *See* Docket No. 1031, at 36 (“Cleary has shared the findings from the Investigation with the Special Committee and counsel to the UCC and the Ad Hoc Group.”). Despite clearly waiving both attorney-client communication and work product privilege, the Debtors and the Special Committee refused to answer questions seeking factual information about the Special Committee Investigation during the Aronzon Declaration and continue to refuse to produce the findings from the Special Committee Investigation to the CCAHG *See* Griffith Decl., Exhibits 3 & 9.

CONCLUSION

62. WHEREFORE, for the reasons set forth above, the CCAHG respectfully requests that the Court grant this Motion, and enter the Proposed Order, attached as Exhibit A, precluding the declarations or testimony of Paul Aronzon or any other Special Committee member and Joseph Sciametta or any other financial advisor to the Special Committee at the confirmation hearing in support of or about the Proposed Releases sought by the Debtors and the Special Committee Investigation.

Dated: February 21, 2024
New York, New York

McDERMOTT WILL & EMERY LLP

/s/ Darren Azman

Darren Azman
Joseph B. Evans
J. Greer Griffith
Lucas B. Barrett
One Vanderbilt Avenue
New York, NY 10017-3852
Telephone: (212) 547-5400
Facsimile: (212) 547-5444
E-mail: dazman@mwe.com
E-mail: jbevans@mwe.com
E-mail: ggriffith@mwe.com
E-mail: lbarrett@mwe.com

- and -

Gregg Steinman (admitted *pro hac vice*)
333 SE 2nd Avenue, Suite 4500
Miami, FL 33131-2184
Telephone: (305) 329-4473
Facsimile: (305) 503-8805
E-mail: gsteinman@mwe.com

*Counsel to the Genesis Crypto
Creditors Ad Hoc Group*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of February 2024, he caused a true and correct copy of the foregoing *The Genesis Crypto Creditors Ad Hoc Group's Motion In Limine to Preclude Evidence Regarding the Proposed Releases on Which the Special Committee and Its Counsel Withheld Critical Information* (the "Motion") to be filed using this Court's CM/ECF System (the "CM/ECF System") which caused the Motion to be served on all registered users of the CM/ECF System who have consented to receive such notice in this case.

/s/ Darren Azman
Darren Azman

EXHIBIT A

Proposed Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC., *et al.*,¹

)
) Chapter 11
)

) Case No. 23-10063 (SHL)
)

) (Jointly Administered)
)

**ORDER APPROVING GENESIS CRYPTO CREDITORS AD HOC GROUP'S MOTION
IN LIMINE TO PRECLUDE EVIDENCE REGARDING THE PROPOSED RELEASES
AND THE SPECIAL COMMITTEE INVESTIGATION**

Upon consideration of the motion (the "Motion")² of the Crypto Creditors Ad Hoc Group ("CCAHG") to preclude the Debtors from offering declaration and testimony from Paul Aronzon or any other Special Committee member and Joseph Sciametta or any other financial adviser to the Special Committee at the confirmation hearing in support of the proposed releases sought by the Debtors and the investigation conducted by the Special Committee; and due and proper notice of the Motion having been provided; and the Court having reviewed the Motion; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and this Court having jurisdiction to order the relief provided herein in accordance with 28 U.S.C. §§157 and 1334; and this being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors' estates, and that the legal and factual bases set forth in the

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's tax identification number (as applicable) are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); and Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

² Capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Motion.

Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore:

IT IS HEREBY FOUND AND ORDERED THAT:

- A. The Motion is hereby granted to the extent provided herein.
- B. The Debtors shall be precluded from introducing the declarations or testimony of Paul Aronzon or any other Special Committee member and Joseph Sciametta or any other financial adviser to the Special Committee at the confirmation hearing in support of the proposed releases sought by the Debtors and the investigation conducted by the Special Committee.
- C. The Court retains jurisdiction with respect to all matters arising from or related to the interpretation and implementation of this Order.

Dated: _____, 2024
New York, New York

HONORABLE SEAN H. LANE
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT B

Declaration of J. Greer Griffith, February 21, 2024

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC., *et al.*,¹

)
) Chapter 11
)

) Case No. 23-10063 (SHL)
)

) (Jointly Administered)
)

**DECLARATION OF J. GREER GRIFFITH IN SUPPORT OF
THE GENESIS CRYPTO CREDITORS AD HOC GROUP'S MOTION *IN LIMINE* TO
PRECLUDE EVIDENCE REGARDING THE PROPOSED RELEASES AND
THE SPECIAL COMMITTEE INVESTIGATION**

I, J. Greer Griffith, declare as follows pursuant to 28 U.S.C. § 1746:

1. I am a partner at the law firm McDermott Will & Emery LLP ("McDermott"), counsel to the Genesis Crypto Creditors Ad Hoc Group in the above-captioned chapter 11 cases.

2. I respectfully submit this declaration in support of the *Genesis Crypto Creditors Ad Hoc Group's Motion In Limine to Preclude Evidence Regarding the Proposed Releases and the Special Committee Investigation* (the "Motion").

3. Attached as Exhibit 1 is a true copy of the *Debtors' Amended Witness List in Connection with the Confirmation Hearing*, dated January 5, 2024.

4. Attached as Exhibit 2 is a true copy of the transcript of the deposition of Joseph Sciametta, dated January 30, 2024, excerpted to include portions relevant to this Motion.

5. Attached as Exhibit 3 is a true copy of the transcript of the deposition of Paul Aronzon, dated January 31, 2024, excerpted to include portions relevant to this Motion.

6. Attached as Exhibit 4 is a true copy of emails exchanged between McDermott and

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's tax identification number (as applicable) are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); and Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

Cleary Gottlieb Stein & Hamilton LLP (“Cleary”), dated February 6–7, 2024.

7. Attached as Exhibit 5 is a true copy of emails exchanged between McDermott and Cleary, dated February 3–4, 2024.

8. Attached as Exhibit 6 is a true copy of the *Genesis Crypto Creditors Ad Hoc Group’s Second Requests for Production of Documents to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.* and the *Genesis Crypto Creditors Ad Hoc Group’s Interrogatories to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.*, both dated January 17, 2024.

9. Attached as Exhibit 7 is a true copy of the *Debtors’ Responses and Objections to the Genesis Crypto Creditors Ad Hoc Group’s Second Requests for Production of Documents* and the *Debtors’ Responses and Objections to Genesis Crypto Creditors Ad Hoc Group’s First Set of Interrogatories to the Debtors*, both dated January 30, 2024.

10. Attached as Exhibit 8 is a true copy of emails exchanged between McDermott and Cleary, dated January 30, 2024. I further declare that attached to this email, as “GENESIS_CCG_CONF_V001.zip”, was a production of three publicly available Voluntary Petitions for Non-Individuals Filing for Bankruptcy of Genesis Global Capital, LLC, Genesis Asia Pacific PTE. LTD., and Genesis Global Holdco, LLC.

11. Attached as Exhibit 9 is a true copy of emails exchanged between McDermott and Cleary, dated February 20–21, 2024.

12. Attached as Exhibit 10 is a true copy of emails exchanged between McDermott and Cleary, dated February 16–19, 2024.

13. Attached as Exhibit 11 is a true copy of an email sent by Cleary to McDermott, dated February 20, 2024. Accompanying this email was a production of nine Special Committee

meeting minutes, which were almost entirely redacted for privilege except for the date and time of the meeting, attendees, and—in one sole instance—the stand alone phrase “released parties.”

Dated: February 21, 2024
New York, New York

/s/ J. Greer Griffith
J. Greer Griffith
McDERMOTT WILL & EMERY LLP
One Vanderbilt Avenue
New York, NY 10017-3852
Telephone: (212) 547-5578
Facsimile: (212) 547-5444
E-mail: ggriffith@mwe.com

*Counsel to the Genesis Crypto
Creditors Ad Hoc Group*

EXHIBIT 1

Debtors' Amended Witness List in Connection with the Confirmation Hearing

CLEARY GOTTlieb STEEN & HAMILTON LLP

Sean A. O’Neal

Luke A. Barefoot

Jane VanLare

One Liberty Plaza

New York, New York 10006

Telephone: 212-225-2000

Facsimile: 212-225-3999

*Counsel to the Debtors
and Debtors-in-Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No.: 23-10063 (SHL)

Jointly Administered

**DEBTORS’ AMENDED WITNESS LIST
IN CONNECTION WITH THE CONFIRMATION HEARING**

Genesis Global Holdco, LLC and its affiliated debtors Genesis Global Capital, LLC (“GGC”) and Genesis Asia Pacific Pte. Ltd. (collectively, the “Debtors”), as debtors and debtors-in-possession in the above-captioned cases (the “Chapter 11 Cases”), by their undersigned counsel, submit the following list of witnesses in connection with the hearing on confirmation of the Debtors’ chapter 11 plan on February 14, 2023 at 10:00am (ET) (the “Confirmation Hearing”):

1. Paul Aronzon, in his capacity as a member of the Special Committee of the Board of Directors of Genesis Global Holdco, LLC;

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s tax identification number (as applicable), are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

2. Joseph Sciametta, Managing Director at Alvarez & Marsal North America, LLC;
3. Brad Geer, Managing Director at Houlihan Lokey Capital, Inc.;
4. Any witness listed, offered or called by any other party; and
5. Any witness required for rebuttal or impeachment.

The Debtors reserve their rights to supplement and amend their list of witnesses in connection with the Confirmation Hearing. The Debtors further reserve their rights to cross examine all witnesses called by other parties in interest.

Dated: January 5, 2024
New York, New York

CLEARY GOTTlieb STEEN & HAMILTON LLP

/s/ Jane VanLare

Sean A. O'Neal

Luke A. Barefoot

Jane VanLare

CLEARY GOTTlieb STEEN & HAMILTON LLP

One Liberty Plaza

New York, New York 10006

Telephone: (212) 225-2000

Facsimile: (212) 225-3999

*Counsel for the Debtors
and Debtors-in-Possession*

EXHIBIT 2

Excerpts of the Deposition Transcript of Joseph Sciametta, Dated January 30, 2024

PROFESSIONALS' EYES ONLY

Page 1

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 ----- x

4 In re:

5 GENESIS GLOBAL HOLDCO, LLC, et al.,

6 DEBTORS.

7 CASE NO. 23-10063 (SHL)

8 ----- x

9 * PROFESSIONALS' EYES ONLY *

10

January 30, 2024

11

10:13 a.m.

12

13

14

15 DEPOSITION of JOSEPH SCIAMETTA, taken

16 pursuant to Notice, before Fran Insley, at Weil

17 Gotshal & Manges, LLP, 767 Fifth Avenue, New

18 York, NY, a Notary Public of the States of New

19 York and New Jersey.

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Q. Hi. So I have a series of questions concerning the plan specifically concerning your financial analysis regarding proposed releases, the value of claims being released, the value that will be derived to the estate from the persons and entities being released, whether releases in the plan are appropriate and the investigation that was conducted into the released parties and entities. It's my

1 understanding from my communications with your
2 counsel that there they are objecting to each
3 of these areas of inquiry. However, you are
4 permitted to answer these questions, and so
5 sitting here today, are you going to refuse to
6 answer questions concerning all of these
7 topics?

8 MS. VANLARE: I object to what has
9 been just said. Mr. Sciametta has not
10 been designated as a 30(b)(6) witness on
11 any of those topics. My understanding is
12 we had a prior -- we, being the debtors
13 counsel, had an understanding with the
14 crypto group counsel, McDermott, that
15 McDermott had withdrawn its own 30 (b) (6)
16 topics.

17 Irrespective of that, however,
18 Mr. Sciametta has not been designated on
19 any of those topics and so will not be
20 testifying on those topics today. He has
21 not been noticed in his personal capacity.

22 To the extent that you have any
23 questions that would fall within the
24 purview of the designated topics for
25 Mr. Sciametta in response to DCG's notice,

1 subject to our objections, we can proceed.
2 And that's -- that -- you can proceed and
3 ask those questions, but anything outside
4 that scope, we will object to and not
5 permit questioning of Mr. Sciametta.

6 MS. GRIFFITH: We did not withdraw
7 our 30 (b)(6) notice and it's our
8 understanding that we were going to be
9 permitted to have time to examine you
10 today. We are here. We are prepared. We
11 are ready to ask those questions.

12 It's our understanding that you're a
13 financial advisor to the estate and that
14 you should have information regarding the
15 financial analysis that was done on the
16 value of the releases to the estate. If
17 that is not the case and you're not
18 prepared, we are going to continue to
19 notice the deposition until we have the
20 opportunity to ask this line of
21 questioning and keep the deposition open.

22 MS. VANLARE: We object to that
23 characterization of the agreement and we
24 understand your reservation of rights but
25 we object to it.

1 Q. Are you prepared to talk about topic
2 15 in DCG's Notice of Deposition, claims by the
3 Genesis Crypto Creditors Ad Hoc Group including
4 your assessment and valuation of such claims
5 under the plan and the impact of any objections
6 to the plan are the Genesis Crypto Creditors Ad
7 Hoc Group on potential recoveries?

8 MS. VANLARE: Counsel, as is made
9 clear in our responses and objections, the
10 debtors will not designate a witness to
11 provide testimony with respect to this
12 topic.

13 Q. How about for topic 14, your
14 communications with any member of the Genesis
15 Crypto Creditors Ad Hoc Group or the
16 representative concerning, without limitation,
17 any anticipated objection to the plan, the
18 basis for such objection and any analysis under
19 11USC562?

20 MS. VANLARE: The debtors have
21 designated Mr. Paul Aaronson on that
22 topic. Mr. Sciametta has not been
23 designated on that topic.

24 Q. Have you evaluated in any way the
25 value of the releases under the plan?

1 MS. VANLARE: Objection. I will
2 instruct the witness not to answer for all
3 the reasons that I've articulated. This
4 is outside the scope. Again, I don't want
5 to repeat myself. But again, it's outside
6 the scope of any topics that he has been
7 designated for and he has not been noticed
8 in his personal capacity.

9 Q. Are you going to follow your
10 counsel's instruction or are you able to answer
11 the question?

12 A. I'll follow my counsel's
13 instruction.

14 Q. Have you at all as the financial
15 advisor to debtors valued what will be derived
16 to the estate from the persons and entities
17 being released?

18 MS. VANLARE: Again, this is not
19 appropriate. It's not within the scope.
20 It's not within the scope of the 30(b)(6).
21 Mr. Sciametta is not a personal witness
22 as -- there has not been a notice of him
23 as a personal fact witness.

24 MS. GRIFFITH: But he's a financial
25 advisor.

1 MS. VANLARE: He's a financial
2 advisor, that's correct.

3 Q. So, are you able to answer that
4 question in your capacity as a financial
5 advisor?

6 MS. VANLARE: Again, this is not
7 about whether he is able to or not. He is
8 here in his capacity as a 30(b)(6) witness
9 on designated topics that have been agreed
10 to subject to our objections. That is
11 what he is here for. Any other questions
12 are not appropriate or within scope.

13 MS. GRIFFITH: Then we will keep the
14 deposition open pursuant to the fact that
15 we never withdrew and there is no evidence
16 of us withdrawing our notice of 30(b)(6)
17 deposition on these topics and that we had
18 a prior agreement with other of your
19 colleagues that we would be permitted the
20 opportunity to ask questions during the
21 deposition.

22 MS. VANLARE: We strongly disagree
23 with that statement. We believe there was
24 an agreement and you did withdraw. We
25 reserve all our rights.

EXHIBIT 3

Excerpts of the Deposition Transcript of Paul Aronzon, Dated January 31, 2024

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

GENESIS GLOBAL HOLDCO, LLC, et al.,
Debtors.

Case No.: 23-10063 (SHL)

January 31, 2024

8:39 a.m.

VIDEOCONFERENCE DEPOSITION of
PAUL ARONZON, pursuant to Notice, held at
8786 North Promontory Ridge Drive, Park
City, Utah before Wayne Hock, a Notary
Public of the State of New York.

P . Aronzon

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXAMINATION BY

MS . GRIFFITH :

Q . Good afternoon , Mr . Aronzon .

1 P. Aronzon

2 Do you hear me okay?

3 A. Yes.

4 Q. Great.

5 My name is Greer Griffith. I'm
6 with the law firm McDermott Will and
7 Emery, and I represent the ad hoc crypto
8 creditors group.

9 So this morning you testified
10 that you were one of two special committee
11 members; correct?

12 A. Yes.

13 Q. How frequently did the special
14 committee meet?

15 A. It's impossible to say, but
16 several times, sometimes daily, and
17 certainly many times each week over the
18 entire time frame. It's a very busy, busy
19 committee.

20 Q. And when you met, was it in
21 person, over the phone, e-mail, a
22 combination?

23 MS. VANLARE: Objection.

24 THE WITNESS: It is mostly
25 videoconference. Certainly there

1 P. Aronzon

2 would have been phone calls. There
3 were many in-person meetings, but I
4 usually attended by videoconference.

5 Q. And was one of the purposes of
6 the special committee to conduct
7 investigations?

8 MS. VANLARE: Objection.

9 THE WITNESS: Yes.

10 Sorry, I waited, I waited, I
11 wasn't sure.

12 MS. VANLARE: You did.

13 Q. Did you run the special
14 committee investigations?

15 MS. VANLARE: Objection.

16 THE WITNESS: Did I run them?
17 I'm not sure what you're asking me.

18 Q. Were you in charge of the
19 special committee investigations?

20 MS. VANLARE: Objection.

21 THE WITNESS: The special
22 committee obviously directs its
23 professionals, and the professional
24 here conducted an investigation on our
25 behalf.

1 P. Aronzon

2 Q. What was your role regarding the
3 investigations then?

4 MS. VANLARE: Objection. Asked
5 and answered.

6 THE WITNESS: My role is that of
7 an independent director who's a member
8 of a special committee, and the
9 committee's job is to -- among all the
10 other things that we had on our plate,
11 to look into claims and causes of
12 action that might exist.

13 Q. And you said that you advised
14 professionals who assisted with conducting
15 the investigation; correct?

16 MS. VANLARE: Objection.
17 Misstates testimony.

18 THE WITNESS: I didn't advise
19 anybody. But we, as a special
20 committee, did direct and make
21 business decisions about the
22 investigation to the extent we were
23 asked to do so.

24 Q. And which professionals did you
25 work with as part of this investigation?

1 P. Aronzon

2 MS. VANLARE: Objection.

3 THE WITNESS: The company's
4 professionals. There's, as you know,
5 there's Cleary, that's the main --
6 they would be the main focus of the
7 discussions. And then of course there
8 was support on the financial side from
9 A&M, Alvarez and Marsal, and also to
10 the extent necessary, Moelis and
11 Company.

12 Q. And did all three of these
13 different professional groups provide
14 updates to the special committee?

15 MS. VANLARE: Objection. Vague.

16 THE WITNESS: On what? We got
17 regular updates on a variety of
18 topics.

19 Q. What did they update you about?
20 What type of topics?

21 MS. VANLARE: Objection.

22 THE WITNESS: Everything we were
23 working on, whether it was the plan,
24 settlement negotiations, litigation
25 matters, claims disputes, legal issues

1 P. Aronzon

2 from time to time on a daily basis,
3 frankly, and certainly the
4 investigative issues.

5 Q. Did they provide reports to you
6 about documents that they were collecting
7 or reviewing in connection with the
8 investigation?

9 MS. VANLARE: Objection.

10 And I would caution the witness
11 to the extent your answer would
12 disclose any client privilege.

13 THE WITNESS: We did receive
14 reports.

15 Q. And what type of reports? I'm
16 not asking for you to reveal any
17 attorney-client privileged information,
18 but were these reports summarizing
19 documents that were collected from
20 individuals, were they summarizing
21 interviews that were conducted?

22 MS. VANLARE: Objection.

23 And again, to the extent your
24 answer would involve revealing any
25 client-attorney communications, I

1 P. Aronzon

2 would instruct you not to answer.

3 THE WITNESS: They were very
4 detailed reports about all of the
5 activities of our investigative team.

6 Q. And do you consider those
7 reports to be privileged information?

8 MS. VANLARE: Objection. Calls
9 for a legal conclusion.

10 THE WITNESS: I believe they are
11 privileged.

12 MS. GRIFFITH: And I have my
13 colleague Matthew Gibson on with me.

14 Matthew, could you upload the
15 amended disclosure statement.

16 (Whereupon, a document entitled
17 Amended Disclosure Statement With
18 Respect to The Amended Joint Plan of
19 Genesis Global Holdco, LLC
20 was marked Aronzon Exhibit 6
21 for identification.)

22 Q. And when that's uploaded as an
23 exhibit, I believe we're at Exhibit 6.

24 I'm going to direct your
25 attention to the bottom of page

1 P. Aronzon

2 thirty-six.

3 A. I'm closing the Exhibit 5; okay?
4 Page what now?

5 Q. It's thirty-six on the bottom of
6 the page. On the top it will say page
7 fifty-one of three hundred six. But for
8 the record, this is the amended disclosure
9 statement with respect to the is amended
10 joint plan of Genesis Global Holdco, LLC,
11 et al., under Chapter 11 of the bankruptcy
12 code filed at document 1031 publicly on
13 the docket.

14 A. Okay, I've got it.

15 Q. And if you look at the bottom of
16 that page, it says, "Cleary has shared the
17 findings from the investigation with the
18 special committee and counsel to the UCC
19 and the ad hoc group".

20 Do you see that?

21 A. Yes.

22 Q. Are these detailed reports that
23 you're referencing that fall under the
24 findings that Cleary shared about its
25 investigation?

P. Aronzon

MS. VANLARE: Objection. Vague.

MR. WEST: Objection.

THE WITNESS: Go ahead.

MS. VANLARE: Objection. Vague.

And also I would add again, to the extent this would reveal any attorney-client privilege, I would instruct you not to answer.

THE WITNESS: I heard somebody else say something.

MS. VANLARE: I believe that was Mr. West.

THE WITNESS: I actually -- I can't give you any substance, but what I can tell you is I don't know exactly what was shared.

Q. Were the reports, the detailed reports that were shared with you, also shared with counsel to the UCC and the ad hoc group?

MS. VANLARE: Objection.

THE WITNESS: I don't know.

Q. Who would have that information?

A. Our counsel and probably the UCC

1 P. Aronzon

2 counsel and ad hoc group counsel. They
3 can tell you what they got and what was
4 delivered.

5 Q. And do you have these reports in
6 your possession, these detailed finding
7 reports?

8 MS. VANLARE: Objection.

9 THE WITNESS: Sitting here right
10 now in my hand, no.

11 Q. But if you were able to look in
12 your e-mail or in your personal
13 possession.

14 MS. VANLARE: Objection.

15 Counsel, you're misrepresenting
16 what's written on the page, so I would
17 caution the witness.

18 THE WITNESS: I am sure that I
19 have reports that were provided by our
20 counsel.

21 Q. Is the special committee
22 investigation still ongoing?

23 A. I believe that we are still --
24 I'm not quite sure how to answer this.

25 There is work that is ongoing by

1 P. Aronzon

2 our counsel on a variety of issues having
3 to do with a variety of different
4 subjects. I don't know how to describe it
5 any better than that. I mean, for
6 instance, you know, we have work that
7 we're doing in connection with plan
8 releases. That work is ongoing. I don't
9 know if that fits into your
10 categorization, but that is a topic that I
11 know is still in process.

12 Q. How about an investigation into
13 potential claims the estate might have?

14 MS. VANLARE: Objection.

15 To the extent your answer would
16 reflect or reveal any attorney-client
17 privileged information, I would
18 instruct you not to answer.

19 THE WITNESS: All I can really
20 say is there is continuing work being
21 done in certain areas.

22 Q. Did the special committee
23 investigate all claims that the estate
24 might have?

25 MS. VANLARE: Objection.

1 P. Aronzon

2 Objection to form.

3 And again, Mr. Aronzon, to the
4 extent your answer would reveal any
5 attorney-client communications, I
6 would instruct you not to answer.

7 THE WITNESS: I'm not quite sure
8 how to answer this. The special
9 committee relied on its professionals
10 to assist in determining what to
11 investigate and what not to.

12 Q. What type of claims did the
13 special committee investigate?

14 MS. VANLARE: Objection.

15 To the extent that your answer
16 would reveal any attorney-client
17 communication, I would instruct you
18 not to answer.

19 THE WITNESS: I'll try to do
20 this generically; okay?

21 To the extent that a claim would
22 be, quote, an asset of our estate, we
23 looked at it through our
24 professionals.

25 To the extent a claim would

P. Aronzon

result in something to do with claims that are asserted against the estate, we would look at that. And I'm doing it really generally because I don't know how to be specific without revealing discussions and privileged information. And then obviously to the extent people apprised us of things they thought should be investigated, if we thought there was a reason to follow up, we would do so. And there may be other types of things that we would look at depending on the issues and the timing and everything else.

Q. Did the special committee investigate potential claims against former directors, officers, and employees at Genesis?

MS. VANLARE: Objection.

And again, Mr. Aronzon, to the extent any part of your answer would reveal attorney-client communication, I would instruct you not to answer.

1 P. Aronzon

2 THE WITNESS: I think the answer
3 is in certain circumstances, yes.

4 Q. Did the special committee
5 investigate potential claims against
6 current directors, officers, and employees
7 at Genesis?

8 MS. VANLARE: Objection. Asked
9 and answered.

10 And again --

11 MS. GRIFFITH: The prior question
12 was about former. This is current.

13 MS. VANLARE: I'm referencing
14 your prior question in response to Mr.
15 Aronzon already testified all of the
16 types of claims and issues that were
17 considered by the special committee.

18 MS. GRIFFITH: He did not specify
19 who he was investigating those claims
20 against, just the time frames.

21 MS. VANLARE: His testimony
22 addresses this question.

23 Mr. Aronzon, again to the extent
24 your answer would reflect or reveal
25 any client-attorney privileged

1 P. Aronzon

2 communications, I would instruct you
3 not to answer.

4 THE WITNESS: It is a category
5 that we looked into.

6 Q. Approximately how many
7 individuals were employed at Genesis at
8 any given time in 2022?

9 A. I don't know.

10 Q. Ballpark number.

11 MS. VANLARE: Objection. Asked
12 and answered.

13 THE WITNESS: I really have no
14 basis to make that determination.

15 Q. Approximately how many directors
16 and officers were employed at Genesis at
17 any given time in 2022?

18 MS. VANLARE: Objection.

19 THE WITNESS: I don't know the
20 exact number.

21 Q. Ballpark estimate.

22 MS. VANLARE: Objection.

23 THE WITNESS: Directors? I came
24 in at the end of 2022 and I think
25 there were four directors.

1 P. Aronzon

2 I'm really not certain of the
3 total number. I'm more focused or
4 have been more focused on who is
5 around after I became a member of the
6 board. And as I testified earlier
7 this morning, there were a few other
8 directors and the special committee at
9 some point a few months into the case,
10 two, three, four, five, I don't
11 remember, basically took over.

12 Q. Do you know how many individuals
13 are currently employed at Genesis?

14 MS. VANLARE: Objection.

15 THE WITNESS: No. They've been
16 downsizing. I don't know the number.

17 Q. Do you know how many individuals
18 are current directors and officers at
19 Genesis?

20 MS. VANLARE: Objection.

21 THE WITNESS: Directors, there's
22 Tom Conheeney and myself. And as I
23 said earlier this morning, I'm not
24 sure whether the other directors, for
25 instance the DCG directors, I don't

1 P. Aronzon

2 recall whether they actually formally
3 resigned or not. But the special
4 committee has functioned as the board
5 for many months now.

6 Officers, there's a handful,
7 two, three, four.

8 Q. How many interviews have been
9 conducted as part of the special
10 committee's investigation?

11 MS. VANLARE: Objection.

12 THE WITNESS: I don't know the
13 number. Several.

14 Q. And this will refresh your
15 recollection if we look at the amended
16 disclosure statement again, Exhibit 6,
17 page thirty-six on the bottom, page
18 fifty-one of three one six on the top.

19 MS. VANLARE: I'm sorry, counsel,
20 what page was that again?

21 MS. GRIFFITH: Sure.

22 So on the bottom, it's numbered
23 page thirty-six. At the top of the
24 PDF, it says page fifty-one of three
25 hundred six.

1 P. Aronzon

2 MS. VANLARE: Thank you.

3 Q. Are you on that page?

4 A. Yes.

5 Q. And if you look right in the
6 middle of that page, there's a paragraph
7 that states, "as part of the
8 investigation, Cleary conducted more than
9 thirty interviews with approximately
10 twelve current and former employees
11 allocated to the company".

12 Do you see that?

13 A. Yes.

14 Q. And if you keep reading, it
15 says, "between December 4, 2022 and
16 January 24, 2023, Cleary conducted ten
17 preliminary interviews with current
18 employees".

19 Do you see that?

20 A. Yes.

21 Q. And then the next sentence
22 states that Cleary -- states in part,
23 "Cleary conducted at least nineteen more
24 substantive interviews with both current
25 and former employees".

1 P. Aronzon

2 Do you see that?

3 A. Yes.

4 Q. So it looks like there's ten
5 preliminary interviews, nine substantive
6 interviews that took place. But the first
7 sentence states approximately twelve
8 current and former employees were
9 interviewed. And so I'm trying to figure
10 that out.

11 Does that mean that similar --
12 the same individuals were interviewed
13 twice, both for the preliminary interviews
14 and the substantive interviews?

15 MS. VANLARE: Objection.

16 THE WITNESS: I don't know.

17 Q. Do you know who Cleary
18 interviewed?

19 MS. VANLARE: Objection.

20 And to the extent this would
21 reveal attorney-client communication,
22 I would instruct the witness not to
23 answer.

24 THE WITNESS: I can't answer it
25 without talking about the reports that

P. Aronzon

we received.

Q. You publicly filed details about the results of the special committee investigation here on the docket in the amended disclosure statement. You can't really pick and choose what is considered privilege or what's not considered privilege. You put the topic of interviews in the amended disclosure statement revealing what you investigated. And so I'm asking who were the targets of these interviews.

Do you know who they were?

MS. VANLARE: Objection.

The information that is in the disclosure statement is by definition public. Other information relating to the investigation is privileged. The witness has already testified that he can't answer your question without revealing privileged information. Therefore, I would instruct the witness not to answer the question.

Q. Are you claiming that it's

1 P. Aronzon

2 privileged information whether you know
3 who was interviewed or not?

4 MS. VANLARE: I'm not sure if
5 you're referencing -- if you're
6 addressing your question to the
7 witness or to me.

8 However, in response to your
9 question, my objection stands. And
10 again, I would instruct the witness
11 not to answer to the extent the answer
12 reveals privileged communication,
13 which he said it would.

14 Q. Mr. Aronzon, I'm asking is the
15 identity of the witnesses who were
16 interviewed privileged information, in
17 your opinion?

18 MS. VANLARE: Ms. Griffith,
19 objection.

20 Again, I'm happy to repeat what
21 I just said, but it's the same
22 objection and same instruction to the
23 witness.

24 Q. Did you sit in on any of these
25 interviews?

1 P. Aronzon

2 MS. VANLARE: Objection.

3 You may answer yes or no.

4 THE WITNESS: No.

5 Q. Did you ask any questions during
6 any of these interviews via prewritten
7 questions that were sent?

8 MS. VANLARE: Objection.

9 And again, Mr. Aronzon, I would
10 instruct you not to reveal any
11 attorney-client communications or
12 attorney work product in connection
13 with the investigations.

14 THE WITNESS: Are you asking did
15 I ask our lawyers to ask specific
16 questions?

17 Q. Yes.

18 MS. VANLARE: Objection.

19 I would instruct the witness not
20 to answer to the extent it reveals any
21 attorney work product or
22 attorney-client communications.

23 Q. I'm not asking the substance of
24 the questions, I'm asking your involvement
25 and if you were -- the level of your

1 P. Aronzon

2 involvement.

3 MS. VANLARE: If you're asking
4 the witness if he spoke to his counsel
5 about the investigations; is that your
6 question?

7 MS. GRIFFITH: Yes, did he help
8 prepare for the interviews.

9 MS. VANLARE: Again --

10 MS. GRIFFITH: I'm not asking
11 which questions he prepared, I'm
12 asking whether he was part of the
13 process for preparing for the
14 interviews that were conducted on
15 behalf of the special committee.

16 MS. VANLARE: Counsel, again
17 objection to your questions.

18 And I would instruct the witness
19 not to answer as it all calls for
20 privileged information.

21 Q. Did you -- do you know if these
22 interviews were recorded?

23 MS. VANLARE: Same objection.

24 You may answer yes or no, if you
25 know.

1 P. Aronzon

2 THE WITNESS: I don't know.

3 Q. Did you review any transcripts
4 of these interviews?

5 MS. VANLARE: Objection.

6 Again, I'm going to instruct the
7 witness not to answer as this goes
8 into the details of the investigation
9 which are all privileged.

10 MS. GRIFFITH: On what basis is
11 whether Mr. Aronzon, who's a special
12 committee member who's tasked with
13 evaluating whether individuals should
14 be released privileged if he reviewed
15 an interview transcript? I'm not
16 asking his thoughts or analysis of the
17 interview transcript, I'm asking
18 whether he reviewed it.

19 MS. VANLARE: Counsel, you're
20 asking questions that relate to the
21 conduct of an investigation that was
22 done by counsel and you're asking
23 about actions and conversations and
24 events that took place in the context
25 of a -- again an investigation that is

1 P. Aronzon

2 attorney-client communication and/or
3 attorney work product.

4 Q. So are you refusing to answer
5 the question of whether the special
6 committee reviewed any interview
7 transcripts?

8 MS. VANLARE: Again, objection.

9 The witness is not refusing. I'm
10 instructing the witness not to answer
11 for the reasons that I identified
12 earlier.

13 Q. And just so the record is clear,
14 are you refusing to identify which
15 witnesses were interviewed as part of the
16 special committee investigation that are
17 listed here in the paragraph in the
18 amended disclosure statement that we
19 looked at?

20 MS. VANLARE: Objection.

21 Again, as stated previously, the
22 witness is not refusing. I am
23 instructing the witness not to answer,
24 however, for the reasons I identified
25 earlier in that it calls for

1 P. Aronzon

2 attorney-client communication and
3 attorney work product and is therefore
4 privileged information.

5 Q. And are you going to take your
6 counsel's advice, Mr. Aronzon?

7 A. I always do.

8 Q. How were the individuals that
9 were interviewed selected to be
10 interviewed?

11 MS. VANLARE: Again, objection,
12 for the same reason. This goes into
13 the details of the investigation and
14 is all subject to attorney-client
15 privilege and attorney work product,
16 and I would instruct the witness not
17 to answer.

18 Q. Are you following that
19 instruction again?

20 A. I always do.

21 Q. Was anyone that was interviewed
22 not a current or former employee of
23 Genesis?

24 MS. VANLARE: Objection.

25 Once again, the question calls

1 P. Aronzon

2 for privileged information. I would
3 instruct the witness not to answer.

4 Q. Are you going to answer the
5 question, Mr. Aronzon?

6 A. No.

7 Q. During the course of your
8 investigation, did the special committee
9 investigate communications that Genesis
10 had with Genesis customers?

11 MS. VANLARE: Objection once
12 again for the same reason. Calls for
13 privileged communication.

14 And I would instruct the witness
15 not to answer.

16 Q. Once again, Mr. Aronzon, are you
17 going to answer the question or not?

18 A. No. And when I'm instructed not
19 to answer, I'm not going to answer.

20 Q. The special committee
21 investigated DCG; correct?

22 MS. VANLARE: Mr. Aronzon, you
23 may answer yes or no, but beyond that
24 I would caution -- well, I would
25 instruct you to answer yes or no to

1 P. Aronzon

2 that question.

3 THE WITNESS: Yes.

4 Q. And if we look at the top of
5 page thirty-six, there's much more than a
6 yes or no answer that was publicly filed
7 on the docket about the special
8 committee's investigation into DCG. I'll
9 read the line into the record.

10 It says, "as part of its
11 mandate, the special committee was charged
12 with evaluating and improving transactions
13 with affiliates, including DCG parties and
14 investigating the debtors' relationships
15 and transactions with DCG parties. One of
16 the primary purposes of this investigation
17 has been to assess whether the debtors
18 have potentially viable claims against the
19 DCG parties and to assist the special
20 committee in the exercise of its fiduciary
21 duties".

22 Do you see that?

23 A. Yes.

24 Q. Has the special committee
25 determined whether the debtors have

1 P. Aronzon

2 potentially viable claims against the DCG
3 parties?

4 MS. VANLARE: Objection.

5 Counsel, the language is what it
6 is. You're misstating the language.
7 Obviously the witness can refer to
8 what is in the disclosure statement.

9 THE WITNESS: At the bottom of
10 the page there's a sentence that says,
11 "the special committee concluded that
12 there are colorable claims against
13 certain DCG parties for various causes
14 of action", and it goes on to say,
15 "including potential claims based on
16 alter ego, preference, and other legal
17 cognizable rights".

18 Q. And has the special committee
19 ever calculated a value of these claims?

20 MS. VANLARE: Objection.

21 I'm going to instruct the
22 witness not to answer as it would
23 reveal attorney work product and
24 attorney-client communication.

25 Q. And you're following that advice

1 P. Aronzon

2 again, Mr. Aronzon?

3 A. As I said earlier.

4 Q. I have to keep asking for the
5 record.

6 A. I understand.

7 Q. Thank you for your cooperation.

8 Did the special committee
9 investigate potential preference claims
10 against DCG parties?

11 MS. VANLARE: You may answer yes
12 or no, Mr. Aronzon.

13 THE WITNESS: Yes.

14 Q. And did the special committee
15 also investigate preference claims against
16 Gemini and Gemini lenders?

17 MS. VANLARE: Objection.

18 To the extent your answer would
19 reveal any attorney-client
20 communication or attorney work
21 product, again the disclosure
22 statement is a publicly filed document
23 and has information relating to the
24 investigations.

25 THE WITNESS: Can I ask a

1 P. Aronzon

2 question? Is there a paragraph that
3 talks about preference claims so I can
4 see what we said publicly?

5 Q. Yes. On page forty-five at the
6 bottom, page sixty of three hundred six at
7 the top, there's a paragraph on the
8 special committee's investigation and its
9 analysis of preference claims relating to
10 Gemini and/or the Gemini lenders.

11 Do you see that?

12 A. It's paragraph A?

13 Q. Yes.

14 A. Little A? Yes.

15 Q. So were you involved with the
16 investigation into preference claims
17 against Gemini and the Gemini lenders?

18 MS. VANLARE: Objection.

19 You can answer yes or no.

20 THE WITNESS: Involved, I'm not
21 sure what that means, but our
22 professionals did this work.

23 Q. And did your professionals
24 report their findings on this work to the
25 special committee?

1 P. Aronzon

2 MS. VANLARE: Objection, but you
3 can answer yes or no.

4 THE WITNESS: I believe they
5 did.

6 Q. So you just testified that the
7 special committee investigated potential
8 preference claims against the DCG parties,
9 Gemini, and the Gemini lenders.

10 Did the special committee
11 investigate potential preference claims
12 against parties other than those entities?

13 MS. VANLARE: Objection.

14 You may answer yes or no, but
15 anything revealing attorney-client
16 communication or work product I would
17 instruct you not to answer.

18 THE WITNESS: I believe the
19 answer is yes.

20 Q. Did the special committee
21 investigate preference claims against
22 former directors and officers of Gemini?

23 MS. VANLARE: Objection. Calls
24 for -- again, calls for privileged
25 communication.

1 P. Aronzon

2 You may answer yes or no to the
3 extent it would not reveal attorney
4 work product or privileged
5 communications.

6 THE WITNESS: I actually don't
7 recall all of the individuals or
8 entities that we looked at besides
9 those identified in the disclosure
10 statement. I'd have to go digging
11 around to see.

12 Q. So sitting here today, you can't
13 recall if the special committee
14 investigated potential preference claims
15 against directors, former directors and
16 officers at Gemini?

17 MS. VANLARE: Objection.

18 Misstates his testimony.

19 Counsel, if you want to point
20 him to a section of the disclosure
21 statement, please do so. The
22 disclosure statement or the plan.

23 MS. GRIFFITH: I'm asking from
24 his recollection as someone who was
25 critical to approving whether

1 P. Aronzon

2 directors and officers at Gemini are
3 getting releases, if he considered
4 preference claims against those
5 individuals as part of that analysis.

6 MS. VANLARE: Mr. Aronzon, you
7 may answer yes or no, but beyond that
8 I would instruct you not to answer as
9 it would call for privileged
10 communications and attorney work
11 product.

12 THE WITNESS: Well, I'm not
13 quite sure how to answer this, because
14 the releases don't apply to former
15 directors and officers. It only
16 relates to people who were working for
17 the company from and after the
18 petition date. I don't recall the
19 group of people we looked at, but we
20 certainly looked at a number of
21 different entities and individuals.

22 Q. And when you're saying you
23 looked at a number of different entities
24 and individuals, you're talking about
25 looking at them and whether there was

1 P. Aronzon

2 preference claims against them; that's

3 what you meant by looking at them?

4 MS. VANLARE: Objection.

5 THE WITNESS: It was all done

6 professionals, that's number one.

7 And number two, when I say

8 looking at them, we would have looked

9 at preference claims, and we may have

10 looked at other things, too, depending

11 on what we know or didn't know at the

12 time.

13 Q. Do you know if any of the

14 individuals that are currently set to

15 receive releases have preference liability

16 to the estate?

17 MS. VANLARE: Objection.

18 Attorney-client privilege and work

19 product.

20 I would instruct the witness not

21 to answer.

22 Q. Are you going to answer the

23 question?

24 A. I was waiting for you to ask.

25 No, I'm not.

1 P. Aronzon

2 Q. Do you know the answer to that
3 question without revealing the answer?
4 Just in general, do you know if any of the
5 individuals on the released Genesis
6 personnel list have preference liability
7 to the estate?

8 MS. VANLARE: Objection to the
9 extent answering that would reveal
10 attorney-client communication.

11 THE WITNESS: I don't know how
12 to answer it without talking about
13 what we learned from our
14 professionals, so it's -- I don't
15 think I can answer it without that.

16 Q. Whether you know or do not know
17 a fact is not privileged information.

18 MS. VANLARE: Counsel, you're
19 using legal terminology, for example
20 "preference liability", that is
21 inherently a legal question, and so
22 how the witness would answer that, it
23 would be of course informed by
24 communications with counsel and legal
25 analysis.

1 P. Aronzon

2 Q. You could answer.

3 A. I can't.

4 MS. VANLARE: I think he can't.

5 I think he's answered the question.

6 Q. Do you know if any of the
7 individuals set to get releases withdrew
8 any assets from Genesis within ninety days
9 prior to the petition date?

10 MS. VANLARE: Objection.

11 Objection to form.

12 If you know the answer.

13 THE WITNESS: What I know I
14 learned through all of our
15 professionals' work, so it's hard for
16 them to answer that.

17 Q. You can still answer yes or no
18 if you know that fact or not.

19 MS. VANLARE: He's already
20 answered the question.

21 THE WITNESS: Yeah.

22 Q. You did not answer yes or no.

23 A. I don't know how to answer it
24 without talking about what I learned from
25 our professionals. That's my problem

1 P. Aronzon

2 here. I don't want an inadvertent comment
3 to be made to argue for some kind of
4 waiver.

5 Q. Whether individuals withdrew
6 assets from Genesis is not privileged
7 information.

8 MS. VANLARE: Objection. It's
9 not clear what you mean by your
10 question, first of all.

11 Q. Individuals that are set to get
12 releases, if they withdrew any assets of
13 any kind, crypto included, from Genesis
14 within ninety days of the petition date is
15 not a privileged fact. That's just a
16 fact.

17 MS. VANLARE: Mr. Aronzon, again
18 if -- to the extent you can answer
19 without conversations with counsel,
20 you may answer. But to the extent
21 this is -- that your knowledge comes
22 from conversations with counsel and is
23 informed by conversations with
24 counsel, I would instruct you not to
25 answer.

1 P. Aronzon

2 THE WITNESS: I believe it is
3 informed by conversations with
4 counsel.

5 Q. So separate from communications
6 with counsel, I don't want you to reveal
7 that, I just want to know yes or no if you
8 know whether any of the individuals that
9 are set to get releases withdrew any
10 assets from Genesis within the ninety-day
11 period.

12 MS. VANLARE: Ms. Griffith,
13 you've asked -- I didn't mean to
14 interrupt.

15 MS. GRIFFITH: I'm not asking the
16 substance, I'm asking the fact, does
17 he know that fact or does he not know
18 that fact. That is not a privileged
19 question. Whether or not he knows
20 that, that's a yes or no answer.

21 MS. VANLARE: Ms. Griffith, the
22 witness has answered at least three
23 times that he is unable to answer that
24 question without revealing
25 conversations that he's had with

1 P. Aronzon

2 counsel.

3 Q. So you're refusing to answer the
4 question whether, as a special committee
5 member, you know that in a way that would
6 not reveal privileged communications; is
7 that correct?

8 MS. VANLARE: Objection to that
9 comment. He's not refusing to answer.
10 He has answered the question and you
11 can review the transcript as to his
12 answer.

13 Q. My question's still pending.
14 Is that correct?

15 MS. VANLARE: Objection. He's
16 answered the question.

17 Q. Are you still going to refuse to
18 answer the question, Mr. Aronzon, so we
19 can wrap up this part?

20 MS. VANLARE: Objection to your
21 characterization. He's not refusing.
22 He has answered the question.

23 Mr. Aronzon, if you want to
24 clarify that your answer stands, you
25 can do so, and hopefully we can move

1 P. Aronzon

2 on.

3 THE WITNESS: I believe all of
4 the information I have here came from
5 counsel.

6 MS. GRIFFITH: I'm going to
7 introduce as a new exhibit, Exhibit 7.

8 (Whereupon, a document entitled
9 Exhibit F was marked Aronzon
10 Exhibit 7 for identification.)

11 THE WITNESS: Can I close the
12 disclosure statement? Are we done
13 with it?

14 MS. GRIFFITH: Yes. We might go
15 back to it at one point, but for now
16 we're done with it.

17 And this, for the record, is a
18 notice of filing for plan supplement
19 for the debtors' amended joint
20 Chapter 11 plan filed publicly on the
21 docket as number 1117.

22 Q. Tell me when you're able to
23 access that, please.

24 A. I have it.

25 Q. And if you could flip to the end

1 P. Aronzon

2 of this document, page twenty-one of
3 twenty-two, that's Exhibit S and it's
4 titled Justification For Exculpated and
5 Released Parties.

6 A. I have it.

7 Q. The first paragraph of this page
8 has a defined term in it called the
9 released Genesis personnel.

10 Do you see that?

11 A. Yes.

12 Q. Were current Genesis employees
13 included in the released Genesis personnel
14 list?

15 MS. VANLARE: Objection.

16 THE WITNESS: Current as of
17 when?

18 Q. You tell me.

19 MS. VANLARE: Objection.

20 THE WITNESS: Well, I'm reading
21 the language.

22 "Subject to our reservation of
23 rights, the special committee has
24 provided its prior written consent for
25 the release of current or former

P. Aronzon

employees, officers, directors of the
debtors solely in such person's
capacity as such who served as an
employee, officer, or director of the
debtors pursuant" -- no, "of the
debtors from and after the petition
date, including any employees of GGT
who served or functioned as employees
of the debtor pursuant to a shared
services arrangement with GGT".

So when you use the word
"current", if you're using it the way
it's included here, then the answer is
yes.

Q. And are you, as a special
committee member, familiar with the
individuals that are on the -- with the
released --

MS. GRIFFITH: Strike that.

Q. Are you familiar, as a special
committee member, with who is on the
released Genesis personnel list?

MS. VANLARE: Objection.

To the extent you know, you can

1 P. Aronzon

2 answer, but I would caution to the
3 extent it would reveal any
4 attorney-client communications.

5 THE WITNESS: Am I familiar with
6 who's on the list?

7 Q. Yes, have you reviewed the list?

8 A. I believe I've seen it, yes, or
9 a list. And the work is not done yet, so
10 the list could change.

11 Q. The list as it stands now, does
12 it contain current Genesis employees on
13 it?

14 MS. VANLARE: Objection.

15 THE WITNESS: Genesis meaning
16 the whole empire of Genesis?

17 Q. Yes.

18 MS. VANLARE: Objection.

19 THE WITNESS: I believe it does.
20 Sorry, Jane.

21 Q. And are any individuals that are
22 currently on the released Genesis
23 personnel list former employees, officers,
24 or directors of Genesis?

25 MS. VANLARE: Objection.

1 P. Aronzon

2 You may answer if you know.

3 THE WITNESS: If people were
4 there on the petition date who fit in
5 those categories and they left
6 subsequently, then I believe the
7 answer is yes.

8 Q. How many of the individuals that
9 are currently on the released Genesis
10 personnel list have been interviewed?

11 MS. VANLARE: Objection.

12 This goes into the investigation
13 which again is subject to attorney
14 work product and attorney-client
15 privilege and I would instruct the
16 witness not to answer.

17 Q. And once again, I'm not asking
18 for you to reveal your discussions with
19 counsel. I'm asking if you know, as a
20 special committee member, the number of
21 employees on the list that were
22 interviewed or not as a fact.

23 MS. VANLARE: Again, that goes
24 into the way in which the
25 investigation was conducted which is

1 P. Aronzon

2 subject to privilege, and I would
3 instruct the witness not to answer the
4 question.

5 Q. Are you going to answer the
6 question?

7 A. No.

8 Q. Do you know if the special
9 committee is planning on interviewing all
10 of the individuals on the list prior to
11 the list being finalized?

12 MS. VANLARE: Same objection.

13 This again calls for privileged
14 communication and attorney work
15 product, and I would instruct the
16 witness not to answer.

17 Q. Are you going to answer the
18 question?

19 A. I follow the instructions of my
20 counsel.

21 Q. In your opinion, as a special
22 committee member, separate from the advice
23 of your counsel, do you think it's
24 necessary to interview all of the people
25 that are set to get releases prior to them

1 P. Aronzon

2 being released?

3 MS. VANLARE: Objection. Calls
4 for privileged communication and
5 attorney work product, and I would
6 instruct the witness not to answer.

7 Q. Are you going to answer that
8 question?

9 A. No.

10 Q. Have you personally interviewed
11 anyone that is set to be released on the
12 released Genesis personnel list?

13 MS. VANLARE: Objection. Again
14 calls for the details of the
15 investigation which is subject to
16 attorney-client privilege and attorney
17 work product, and I would instruct the
18 witness not to answer.

19 Q. Are you claiming that whether
20 you, as a special committee --

21 MS. GRIFFITH: Strike that.

22 Q. Earlier in this deposition, you
23 testified that you were not working on the
24 special committee as an attorney; correct?

25 A. I'm not working as an attorney

1 P. Aronzon

2 for anybody anywhere since 2019.

3 Q. So if you were to interview a
4 witness personally, that would not be an
5 interview conducted in an attorney
6 fashion; correct?

7 MS. VANLARE: Objection.

8 Anything relating to the
9 investigation is subject to privilege
10 as it was conducted by counsel and
11 under the direction of counsel and as
12 such, I would instruct the witness not
13 to answer.

14 Q. I'm not asking whether counsel
15 conducted these interviews. I'm asking
16 whether you, Mr. Aronzon, you, as a
17 special committee member, conducted any
18 interviews of any person that is set to be
19 released.

20 MS. VANLARE: And again, my
21 comment was broader than what you just
22 stated, which is to say that the way
23 in which the investigation was
24 conducted was directed by counsel, and
25 so any details relating to the

1 P. Aronzon

2 investigation, unless they're made
3 public through the disclosure
4 statement or the plan supplement, are
5 subject to privilege, and I would
6 instruct the witness not to answer
7 those questions.

8 Q. You previously testified that
9 you did not conduct any interviews. So
10 I'm just asking if you personally
11 interviewed anyone that's going to be
12 released.

13 MS. VANLARE: Objection.

14 MS. GRIFFITH: It's a yes or no
15 answer.

16 MS. VANLARE: You have the
17 testimony that you have. You can
18 refer to the transcript.

19 Q. Are you going to answer the
20 question, Mr. Aronzon?

21 A. Was I instructed not to?

22 MS. VANLARE: I object to the
23 question. You can refer to prior
24 testimony.

25 If you want to repeat the

1 P. Aronzon

2 question and prior testimony to
3 refresh the witness' recollection, I
4 would have no objection to that.

5 Q. Have you personally interviewed
6 any person or entity, so a representative
7 of an entity, that is currently set to
8 receive a release?

9 MS. VANLARE: What was his prior
10 testimony? Are you reading his prior
11 testimony, counsel?

12 MS. GRIFFITH: No, I'm repeating
13 the question that I had which you
14 objected to.

15 MS. VANLARE: Correct.

16 I am asking you if you are
17 asking -- if you are representing that
18 he testified to something, please --

19 MS. GRIFFITH: This is a
20 different question.

21 MS. VANLARE: Okay.

22 Q. Have you personally interviewed,
23 Mr. Aronzon, any person that is --

24 A. It's Aronzon, Aronzon.

25 Q. My apologies.

1 P. Aronzon

2 A. Ignore the Z. I have no idea
3 where it came from. It's Aronzon.

4 Q. My apologies, Aronzon.

5 Have you personally interviewed
6 anyone or a representative of any entity
7 that is set to get a release?

8 MS. VANLARE: Objection. Again
9 calls for information relating to the
10 way in which the investigation was
11 conducted, and as such, I would
12 instruct the witness not to answer.

13 Q. Sorry, you're refusing to answer
14 that question?

15 A. I'm instructed not to.

16 Q. Looking at the first paragraph
17 that we looked at previously which you
18 read out loud in part on the record, it
19 says that "the special committee has,
20 subject to the reservation of rights set
21 forth herein, provided its prior written
22 consent for the release of current or
23 former employees, officers, and directors
24 of the debtors, solely in such person's
25 capacity as such who served as an

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P. Aronzon

employee, officer, or director of the
debtors from or after the petition date".

Do you see that?

A. Yes.

Q. What did you do as a special
committee member to feel confident that
releases were warranted prior to granting
written consent?

MS. VANLARE: Objection to the
extent it would reveal any
attorney-client communications.

But to the extent that -- you
can answer the question without
revealing any attorney-client
communication, you may do so.

THE WITNESS: Without revealing
anything I was told, he relied on our
professionals, including our counsel.

Q. Did the special committee make
any independent decisions separate from
counsel?

MS. VANLARE: Objection. Vague.

THE WITNESS: I can't answer
that one without revealing

1 P. Aronzon

2 conversation with counsel.

3 Q. So did the special committee
4 independently, separate from
5 communications with counsel, consider
6 whether releases of current or former
7 employees should be granted? Did it make
8 an independent decision separate from
9 counsel?

10 MS. VANLARE: Objection.

11 To the extent that the question
12 calls for any attorney-client
13 privileged communications or attorney
14 work product, I would instruct you not
15 to answer.

16 Q. Are you going to answer the
17 question?

18 A. I'm not sure how to answer it.

19 Q. The special committee provided
20 written consent for the release of certain
21 former and current Genesis personnel;
22 correct?

23 A. That is exactly what the
24 disclosure statement says.

25 Q. And do you know that in your

1 P. Aronzon

2 personal capacity separate and aside from
3 just reading this piece of paper?

4 A. Yes.

5 Q. And let's talk about the process
6 for that.

7 What is involved with you giving
8 written consent?

9 MS. VANLARE: Objection.

10 THE WITNESS: I don't know how
11 to answer this without talking about
12 all the things we discussed with
13 counsel.

14 MS. VANLARE: I'm sorry, are you
15 asking the mechanics as in e-mail
16 or --

17 Q. To decide whether to release
18 someone or not, you considered a variety
19 of factors; correct?

20 MS. VANLARE: Objection.

21 To the extent you can answer
22 without attorney-client privilege, a
23 yes or no question.

24 THE WITNESS: We considered a
25 variety of facts, correct.

1 P. Aronzon

2 Q. And was your analysis of those
3 factors completely in alignment with
4 everything your counsel told you or did
5 you ever disagree with anything counsel
6 said?

7 MS. VANLARE: Objection.

8 I'm going to instruct the
9 witness not to answer as it calls for
10 attorney-client communication.

11 Q. In your opinion, did you just
12 rubber stamp what your counsel told you
13 about whether employees should be on the
14 released list, or did you, as a special
15 committee member, make your own
16 independent assessment?

17 MS. VANLARE: Objection to the
18 form.

19 As to the substance of the
20 question again, I would caution the
21 witness to the extent your answer
22 would reveal any attorney-client
23 communication or work product, I would
24 instruct you not to answer. To the
25 extent there's any part of the answer

1 P. Aronzon

2 that you can speak to about the
3 process that would not reveal
4 attorney-client communication, you may
5 do so.

6 THE WITNESS: There was
7 extensive discussion between us and
8 our counsel about all of this.

9 Q. Was there any separate analysis
10 done without counsel?

11 MS. VANLARE: Objection.

12 I believe the witness has
13 already testified that the information
14 and the deliberations were with
15 counsel or on the basis of attorney
16 work product.

17 As such, I would instruct the
18 witness not to answer.

19 Q. Are you not going to answer that
20 question?

21 A. I'm not.

22 Q. Are releases being sought for
23 those on the released Genesis personnel
24 list for both pre and post-petition
25 conduct of individuals on the list?

1 P. Aronzon

2 MS. VANLARE: Objection.

3 THE WITNESS: I'd have to look
4 at the actual release language. It's
5 pretty dense. But I believe it is for
6 pre and post conduct.

7 Q. And how is the perpetration
8 conduct of the individuals on the Genesis
9 released personnel list investigated prior
10 to these individuals being put on the
11 list?

12 MS. VANLARE: Again, objection.
13 This directly calls for the results of
14 an investigation conducted by counsel
15 and would reveal attorney-client
16 communication and as such, I would
17 instruct the witness not to answer.

18 Q. Are you going to answer the
19 question?

20 A. No.

21 Q. Do you know if any individual on
22 the Genesis released personnel list ever
23 was employed by or served as a director of
24 any digital currency group entity other
25 than the debtors?

1 P. Aronzon

2 MS. VANLARE: Objection.

3 To the extent this would reveal
4 attorney-client privileged
5 information, to the extent you know as
6 a fact matter, you may answer.

7 THE WITNESS: I believe in the
8 very first paragraph at the end
9 there's a sentence that says, "for the
10 avoidance of doubt, none of the
11 released Genesis personnel are or also
12 DCG parties". I've have to go look at
13 the definition of DCG parties, but I
14 believe the answer -- if you're asking
15 me were any of those people who were
16 employed at Genesis also employed at
17 DCG and are they getting a release, I
18 think the answer is no, they're not.

19 Q. Do you know if any of the
20 individuals currently on the Genesis
21 released personnel list ever were involved
22 in any way with debtors lending to any DCG
23 entity?

24 MS. VANLARE: Objection.

25 I would caution to the extent

1 P. Aronzon

2 this would reveal any attorney-client
3 privilege or work product.

4 To the extent you know as a fact
5 matter, you may answer.

6 THE WITNESS: Ask it again.

7 Q. Do you know if any of the
8 individuals currently on the released
9 Genesis personnel list ever were involved
10 with debtors lending to any DCG-owned
11 entity?

12 MS. VANLARE: Objection.

13 To the extent the witness would
14 have this information, to the extent
15 he does that results from
16 attorney-client communications or
17 attorney work product, I would
18 instruct the witness not to answer.

19 Q. It's your knowledge as a fact.
20 So it's a yes or no question whether,
21 sitting here today, you know that.

22 MS. VANLARE: To the extent that
23 the information that the witness knows
24 came from an investigation subject to
25 privilege and -- to the extent it came

P. Aronzon

from attorney-client communications,
it is privileged. The witness
obviously doesn't have fact -- well, I
don't believe the witness is a fact
witness as to the period of time that
you're asking about because he was not
appointed -- he was not an employee
and he was only appointed to the
special committee, as he testified to
previously, in November of 2022.

MS. GRIFFITH: The special
committee is charged with the ultimate
authority of granting releases and the
witness testified that prepetition
conduct was considered in whether to
grant these releases. So I'm asking
about prepetition conduct and whether
he is aware, if he has the knowledge,
as a special committee member with the
authority to grant these releases, if
any of the individuals that are
currently on the released Genesis
personnel list were ever involved with
debtors lending to any DCG-end entity.

1 P. Aronzon

2 MS. VANLARE: Again, objection.

3 To the extent the information
4 came from counsel and is -- and came
5 from an investigation conducted by
6 counsel, it is privileged, and I would
7 instruct the witness not to answer.

8 Q. So are you saying the fact --
9 I'm not asking the substance, I'm not
10 asking who was involved or what was
11 investigated, I'm asking the fact about
12 whether debtors lending to any DCG-owned
13 entities was investigated.

14 That's privileged? That's what
15 you're claiming?

16 MS. VANLARE: The subject of the
17 investigation that was conducted and
18 the topics of that investigation are
19 attorney work product and are subject
20 to privilege.

21 I would instruct the witness not
22 to answer.

23 Q. If, in your opinion as a special
24 committee member, you were to find out
25 that any individual on the released

1 P. Aronzon

2 Genesis personnel list was ever involved
3 with debtors lending to any DCG-owned
4 entity, would that impact your decision on
5 whether to grant that individual or entity
6 a release?

7 MS. VANLARE: Objection.

8 Again, calls for speculation.

9 But secondly again, you're
10 asking for what the witness knows and
11 may have discussed or assessed in the
12 context of an investigation that is
13 conducted by counsel at the direction
14 of counsel and is therefore
15 privileged.

16 As such, I would instruct the
17 witness not to answer.

18 Q. Are you refusing to answer the
19 question?

20 A. I'm not instructed not to.

21 Q. The subject of releases and the
22 justification for released parties is
23 publicly filed on the docket and it's a
24 matter that will be heard in court. It's
25 a matter of whether the plan will be

1 P. Aronzon

2 confirmed. So we're allowed to ask facts
3 about the releases and what was done to
4 determine if the releases are appropriate
5 or not.

6 MS. VANLARE: Ms. Griffith, the
7 information -- you're right in that
8 there was information about the
9 releases and the justification for
10 exculpating released parties was filed
11 as part of the plan supplement.
12 There's also disclosure in the
13 disclosure statement.

14 However, a lot of the
15 information relating to this topic is
16 privileged therefore, your questions
17 call for privileged information and I
18 therefore, depending on the question,
19 have instructed the witness not to
20 answer in accordance with the fact
21 that again it is subject to privilege.

22 If you have an issue with that,
23 we can discuss it.

24 Q. I'm move on to my next question.

25 Do you know if any of the

1 P. Aronzon

2 individuals currently on the released
3 Genesis personnel list were ever involved
4 with Genesis' lending to Grayscale Bitcoin
5 Trust?

6 MS. VANLARE: Objection.

7 Once again, you've asked this
8 question multiple times.

9 MS. GRIFFITH: I've never asked
10 about Grayscale Bitcoin Trust.

11 MS. VANLARE: You're right, I
12 stand corrected, it's a different
13 question. However, I'm going to have
14 a similar instruction to the witness,
15 which is to say that, to the extent
16 that anything you know about this came
17 from your conversations with counsel,
18 I will instruct you not to answer.

19 Q. And are you going to answer the
20 question?

21 A. I follow my instructions.

22 Q. Sitting here today as a special
23 committee member, would it impact your
24 decision on whether to authorize releases
25 if you were to find out that any of the

1 P. Aronzon

2 individuals on the released Genesis
3 personnel list ever were involved with
4 Genesis' lending to Grayscale Bitcoin
5 Trust?

6 MS. VANLARE: I'm going to object
7 and once again instruct the witness
8 not to answer as it calls for
9 privileged information and attorney
10 work product done as part of the
11 investigation.

12 And with that, we don't have to
13 stop now, but I do note the time,
14 we've been going on for some time, and
15 I don't know if Mr. Aronzon would like
16 a lunch break. I raise that. We
17 don't have to do it right now. If the
18 witness would like to, I think it's
19 going to be time for a break soon.

20 MS. GRIFFITH: We can take a
21 break now. That's fine.

22 THE WITNESS: Let's not take too
23 long.

24 MS. VANLARE: If you'd rather
25 not, Mr. Aronzon, it's up to you.

1 P. Aronzon

2 THE VIDEOGRAPHER: I do have to
3 reset the video though, counsel. It
4 only takes a few seconds. Whatever
5 you want to do.

6 Should we go off for a few
7 minutes?

8 THE WITNESS: Sure. Let's --
9 five minutes, ten minutes, what do you
10 want?

11 MS. GRIFFITH: Let's take a
12 ten-minute break.

13 THE WITNESS: You've got it.

14 THE VIDEOGRAPHER: The time is
15 12:44.

16 We are off the record.

17 (Whereupon a break was taken)

18 THE VIDEOGRAPHER: The time is
19 1:05.

20 We are on the record.

21 Q. So to jump back in, we were
22 talking about the released Genesis
23 personnel list and what the special
24 committee considered prior to providing
25 written consent for the release of

1 P. Aronzon

2 individuals on this list.

3 So my next question is: Do you
4 know as a fact if any of the Genesis
5 released personnel ever held any Grayscale
6 ETF?

7 MS. VANLARE: Objection.

8 As previously noted, the answer
9 would reflect communications with
10 counsel and attorney work product as a
11 result of the investigation or created
12 as part of the investigation and as
13 such, I would instruct the witness not
14 to answer.

15 Q. Are you going to answer the
16 question?

17 A. No.

18 Q. Do you know, as a fact, if any
19 of the individuals on the released Genesis
20 personnel list were ever involved with
21 debtors lending to Three Arrows Capital?

22 MS. VANLARE: Objection.

23 I believe the answer calls for
24 attorney-client communications and
25 attorney work product and, as such, I

1 P. Aronzon

2 would instruct the witness not to
3 answer.

4 Q. Are you going to answer the
5 question?

6 A. No.

7 Q. Was whether individuals on the
8 Genesis released personnel list was ever
9 involved with debtors lending to Three
10 Arrows Capital a fact that was considered
11 prior to the special committee granting
12 consent for the releases?

13 MS. VANLARE: Objection. Calls
14 for attorney-client communications,
15 attorney work product.

16 I'm going to instruct the
17 witness not to answer.

18 Q. You can answer.

19 MS. VANLARE: I'm going to
20 instruct the witness not to answer for
21 the reasons I just noted.

22 Q. If your answer is that you're
23 not going to your answer, that could be
24 your answer.

25 MS. VANLARE: I am instructing

1 P. Aronzon

2 the witness not to answer.

3 Q. Are you following your counsel's
4 instructions?

5 A. Yes.

6 Q. Was a fact considered by the
7 special committee whether any of the
8 individuals on the released Genesis
9 personnel list were ever involved with
10 debtors lending to FTX or Alameda
11 Research?

12 MS. VANLARE: Same objection.

13 The answer to this question
14 would reveal attorney-client
15 communication and attorney work
16 product and as such, I would instruct
17 the witness not to answer.

18 Q. And are you following your
19 counsel's instruction?

20 A. Yes.

21 Q. Back to that first paragraph
22 that we looked at where it states that it
23 was the special committee which provided
24 prior written consent for the releases of
25 current and former employees.

1 P. Aronzon

2 I just wanted to ask your
3 opinion, does that written consent mean
4 that the decision was the special
5 committee's decision or Cleary's decision?

6 MS. VANLARE: Objection.

7 First, are you referring to
8 paragraph -- the first paragraph of
9 Exhibit 7?

10 MS. GRIFFITH: Yes, Exhibit --
11 yes, Exhibit 7 but first paragraph of
12 Exhibit F of Exhibit 7.

13 MS. VANLARE: Then objection to
14 form.

15 THE WITNESS: This I can answer;
16 correct?

17 MS. VANLARE: You may answer.

18 THE WITNESS: It's the special
19 committee's decision.

20 Q. Did you have to -- I'm sorry,
21 did I cut you off?

22 A. No.

23 Q. My video might have a slight
24 lag.

25 In making this decision, did you

1 P. Aronzon

2 have to accept Cleary's recommendations or
3 could the special committee make its own
4 separate decision about whether releases
5 were appropriate or not?

6 MS. VANLARE: Objection to form.

7 To the extent this would reveal
8 attorney-client communications, I
9 would instruct the witness not to
10 answer.

11 THE WITNESS: So the question is
12 did we have to accept advice from our
13 professionals?

14 Q. Yes.

15 A. No, we don't have to accept it.

16 Q. Did you accept all of the advice
17 from your professionals in making your
18 independent decision about whether
19 releases were appropriate?

20 MS. VANLARE: Objection. Calls
21 for attorney-client communication.

22 I'm going to instruct the
23 witness not to answer.

24 Q. Are you going to follow the
25 advice of your counsel?

1 P. Aronzon

2 A. I am.

3 Q. Do you know if there's currently
4 any litigation between the debtors and any
5 of the individuals or entities on the
6 released Genesis personnel list?

7 MS. VANLARE: Objection.

8 The answer calls for
9 attorney-client communications and
10 attorney work product.

11 I'm going to instruct the
12 witness not to answer.

13 Q. Are you going to follow your
14 counsel's advice?

15 A. Yes.

16 Q. Are you aware of any publicly
17 filed litigation or claims against any
18 individual on the Genesis released
19 personnel list?

20 MS. VANLARE: Objection.

21 I believe the answer calls for
22 attorney-client communications and
23 attorney work product.

24 I instruct the witness not to
25 answer.

1 P. Aronzon

2 Q. Have you separately considered
3 as a factor in whether to grant releases
4 whether there are any currently litigation
5 between the debtors and any of the
6 individuals on the Genesis released
7 personnel list?

8 MS. VANLARE: Objection.

9 The question calls for
10 attorney-client communications and
11 work product, and as such, I'm going
12 to instruct the witness not to answer.

13 Q. Are you going to follow your
14 counsel's advice?

15 A. Yes.

16 Q. Are you aware if any of the
17 releases being granted to the individuals
18 and individuals on the released Genesis
19 personnel list are being granted as part
20 of any settlement of any existing
21 litigation or claims against released
22 Genesis personnel?

23 MS. VANLARE: Objection.

24 Objection to form and calls for
25 attorney-client communications and

1 P. Aronzon

2 work product and, as such, I would
3 instruct the witness not to answer.

4 Q. And are you following your
5 counsel's advice?

6 A. Yes.

7 Q. What is the total potential
8 litigation value of claims the estate may
9 have against all of the individuals listed
10 on the released Genesis personnel list?

11 MS. VANLARE: Objection.

12 I'm going to instruct the
13 witness not to answer beyond what is
14 publicly available. The question
15 calls for information that is
16 privileged and, as such, I will
17 instruct the witness not to answer.

18 MS. GRIFFITH: I'm going for a
19 number. A number is not privileged
20 information.

21 MS. VANLARE: I disagree. I
22 think you're asking for privileged
23 information, and I will instruct the
24 witness not to answer.

25 Q. Yes or no, was the total

1 P. Aronzon

2 potential litigation value of claims
3 something that was calculated or
4 considered by the special committee?

5 MS. VANLARE: Objection. Calls
6 for attorney-client communications and
7 attorney work product.

8 I'm going to instruct the
9 witness not to answer.

10 Q. And are you going to follow your
11 counsel's instruction?

12 A. Yes.

13 Q. Would it be a relevant factor to
14 your decision in granting releases the
15 potential litigation value of claims the
16 estate may have against all of those
17 listed on the released Genesis personnel
18 list?

19 MS. VANLARE: Objection to form.
20 You may answer yes or no.

21 THE WITNESS: It's a factor.

22 Q. And yes or no, was it something
23 you considered?

24 MS. VANLARE: That's not the
25 question you asked.

1 P. Aronzon

2 MS. GRIFFITH: That's a new
3 question.

4 MS. VANLARE: If that's a new
5 question, objection, that question
6 calls for privileged communication
7 and, as such, I would instruct the
8 witness not to answer.

9 Q. And are you following your
10 counsel's advice?

11 A. Yes.

12 Q. Then moving to section two of
13 Exhibit 7, the Exhibit F part of
14 Exhibit 7, and if we look down to section
15 two, it says justifications for the
16 release, and it lists several
17 justifications for the releases.

18 Are you familiar with those
19 justifications?

20 A. Yes.

21 Q. Were these justifications
22 something you considered when granting
23 consent to release the individuals on the
24 Genesis released personnel list?

25 MS. VANLARE: I would caution the

1 P. Aronzon

2 witness not to reveal any
3 attorney-client communications, but I
4 believe you can answer the question.

5 THE WITNESS: Yes.

6 Q. The first bullet point reads,
7 "the releases of the released Genesis
8 personnel apply only to officers,
9 directors, and employees who have provided
10 services to the estates on or after the
11 petition date. The special committee
12 believes that such person contributed,
13 either directly or indirectly, to the
14 debtors' restructuring efforts in the
15 Chapter 11 cases".

16 Do you see that?

17 A. Yes.

18 Q. What is meant by "such persons
19 contributed" in this paragraph?

20 MS. VANLARE: Objection.

21 I believe the question calls for
22 attorney-client communications and, as
23 such, I would instruct the witness not
24 to answer.

25 MS. GRIFFITH: I'm asking what is

1 P. Aronzon

2 meant on a publicly filed document
3 that's a justification for a release
4 being granted. What contributions did
5 people that are getting releases offer
6 the estate? That's a fact.

7 MS. VANLARE: Objection. The
8 question calls for attorney-client
9 communications and attorney work
10 product as a result of an
11 investigation that was conducted and
12 discussions that took place with
13 counsel and, as such, I would instruct
14 the witness not to answer the
15 question.

16 Q. Separate and aside from any
17 communications with counsel, are you aware
18 of any contributions that any employee
19 currently set to get a release has offered
20 the estate?

21 MS. VANLARE: Objection.

22 I would -- to the extent your
23 answer -- what you know and to the
24 extent your answer reflects
25 discussions with counsel, I would

1 P. Aronzon

2 instruct you not to answer.

3 Q. You can answer.

4 A. Everything I know about this
5 comes out of our discussions with our
6 professionals, especially our counsel. So
7 I don't know how to answer other than
8 that.

9 Q. So sitting here as a special
10 committee member, you don't know any
11 contributions that any person getting a
12 release contributed to the estate that you
13 would not consider a privileged
14 contribution that you could not reveal?

15 MS. VANLARE: Objection to form
16 and asked and answered. I believe the
17 witness answered the question you
18 previously posed.

19 Q. Would you --

20 A. Am I supposed to say something
21 or no?

22 Q. Do you have anything to add?

23 A. No. What I learned about the
24 contributions I learned in our discussions
25 with counsel.

1 P. Aronzon

2 Q. So you have no nonprivileged
3 information about contributions that those
4 set to get releases under the plan
5 contributed to the estate?

6 MS. VANLARE: Objection. Asked
7 and answered.

8 THE WITNESS: Correct.

9 Q. Do you know if all of the
10 individuals on the released Genesis
11 personnel list have made contributions
12 either directly or indirectly to the
13 estate?

14 MS. VANLARE: Objection. It goes
15 into attorney-client communications
16 and attorney work product and, as
17 such, I would instruct the witness not
18 to answer.

19 Q. I'm asking about your personal
20 knowledge as a special committee member
21 who you testified has the ultimate
22 decision whether or not to grant releases
23 separate and apart from your counsel's
24 advice.

25 MS. VANLARE: Objection. Asked

1 P. Aronzon

2 and answered. Misstates his
3 testimony. And again, I think the
4 witness has already testified several
5 times that what he learned about this
6 topic came from conversations with
7 counsel.

8 Same objection. Same
9 instruction.

10 Q. And so are you not going to
11 answer the question?

12 A. I'm following my counsel's
13 advice.

14 Q. Have you ever calculated or
15 considered the total dollar value of
16 contributions that those are on the
17 released Genesis personnel list offered to
18 the estate?

19 MS. VANLARE: Objection.

20 You can answer yes or no if you
21 think you can without revealing
22 attorney-client information -- excuse
23 me, attorney-client communication or
24 attorney work product.

25 THE WITNESS: I don't know how

1 P. Aronzon

2 to answer it without referring to the
3 discussions we've had with counsel.
4 And you asked me this before and I
5 said the same thing.

6 Q. Did you consider whether you
7 could hire any new individuals or
8 consultants that would make the same
9 contributions that those that fall on this
10 released Genesis personnel list were
11 contributing to the estate instead?

12 MS. VANLARE: Objection. The
13 question is vague.

14 THE WITNESS: Are you asking
15 could we have hired other people to do
16 the job that our people did?

17 Q. Yes.

18 A. Why would I do that?

19 Q. A potential reason could be so
20 you do not have to release them and
21 therefore forfeit any potential causes or
22 claims of action against those individuals
23 if it was to be revealed at any point in
24 time that they were involved in
25 misconduct.

1 P. Aronzon

2 MS. VANLARE: Is there a
3 question, Ms. Griffith?

4 Q. Yes.

5 Did you ever consider whether
6 new employees or consultants could be
7 hired to do the job that the current
8 employees that are set to get releases are
9 doing?

10 MS. VANLARE: Objection.
11 Objection to form.

12 To the extent you can answer
13 this question without revealing
14 attorney-client communications or
15 attorney work product, you may answer.

16 THE WITNESS: I guess I have a
17 couple of comments.

18 One, I don't make decisions
19 about hiring people for Genesis. We
20 have management that does that.

21 Two, the answer is no, I did not
22 consider it.

23 Q. And who is management at Genesis
24 that makes those decisions?

25 A. We have a number of officers and

1 P. Aronzon

2 directors who make hiring and firing
3 decisions.

4 Q. And are any of those individuals
5 on the released Genesis personnel list?

6 MS. VANLARE: Objection.

7 I'm going to instruct the
8 witness not to answer. It reflects
9 attorney-client communication and
10 attorney work product.

11 Q. Are you following your counsel's
12 directions?

13 A. Yes.

14 Q. The next bullet point states,
15 "the released Genesis personnel have
16 knowledge and insight into the debtors'
17 business and transactions that may be
18 critical to the resolution of litigation
19 against the DCG parties and the Gemini
20 parties as well as various regulatory and
21 enforcement actions relating to the
22 debtors' prepetition businesses".

23 Do you see that?

24 A. Yes.

25 Q. Do you know -- and this is a

1 P. Aronzon

2 number, not who, a number -- how many of
3 the individuals on the released Genesis
4 personnel list have this knowledge and
5 insight?

6 MS. VANLARE: Objection.

7 I believe the answer calls for
8 privileged information with counsel
9 and attorney work product, and as
10 such, I'm going to instruct the
11 witness not to answer.

12 Q. Are you following the direction
13 of your counsel?

14 A. Yes.

15 Q. Who would have this knowledge
16 about which Genesis employees have, quote,
17 knowledge and insight into the debtors'
18 businesses and transactions?

19 MS. VANLARE: Objection. Calls
20 for privileged communication and
21 attorney work product.

22 As such, I would instruct the
23 witness not to answer.

24 Q. Are you following the advice of
25 your counsel?

1 P. Aronzon

2 A. Yes.

3 Q. Do you know if any of the
4 individuals on the released Genesis
5 personnel list have overlapping, quote,
6 knowledge and insight into the debtors'
7 business and transactions?

8 MS. VANLARE: Objection to form,
9 but also I would instruct the witness
10 not to answer to the extent it reveals
11 any attorney-client communication or
12 attorney work product.

13 Q. Are you following your counsel's
14 direction?

15 A. Yes.

16 Q. Have you or the special
17 committee calculated or considered dollar
18 value that could be assigned to this
19 contribution to the estate being the
20 knowledge and insight into the debtors'
21 business and transactions that those on
22 the released Genesis personnel was tasked?

23 MS. VANLARE: Objection.

24 To the extent this question
25 calls for privileged information,

P. Aronzon

attorney-client communications, and/or
attorney work product, I would
instruct the witness not to answer.

Q. And are you following your
counsel's direction?

A. Yes.

Q. Have any of the individuals on
the released Genesis personnel list
refused to cooperate with resolution of
litigation against the DCG parties and the
Gemini parties as well as various
regulatory and enforcement actions
relating to the debtors' prepetition
business unless they received releases?

MS. VANLARE: Objection.

I'm going to -- to the extent it
reveals attorney-client privilege,
attorney work product, I'm going to
instruct the witness not to answer.

Q. Is this a factor that you
considered in granting consent to these
individuals?

MS. VANLARE: Same objection.

Calls for privileged information and

1 P. Aronzon

2 attorney work product.

3 Q. Are you going to follow your
4 counsel's advice?

5 A. Yes.

6 Q. There are more than a hundred
7 individuals currently on the released
8 Genesis personnel list; correct?

9 MS. VANLARE: Objection.

10 I don't know if you know as a
11 fact matter. You may answer. But
12 otherwise, to the extent it calls for
13 attorney-client communication or
14 attorney work product, I would
15 instruct you not to answer.

16 THE WITNESS: I don't know the
17 exact number.

18 Q. Do you know if it's more than a
19 hundred individuals on the Genesis
20 released personnel list?

21 MS. VANLARE: Same objection.

22 And to the extent what you know
23 comes from conversations with counsel,
24 I would instruct you not to answer
25 that question.

1 P. Aronzon

2 THE WITNESS: I don't know.

3 Q. Do you know if it's more than
4 five hundred people on the released
5 Genesis personnel list?

6 MS. VANLARE: Same objection.

7 To the extent any information
8 you have on this comes from counsel,
9 I'm going to instruct you not to
10 answer.

11 THE WITNESS: I don't know the
12 number.

13 Q. Do you know -- referring back to
14 that second bullet point on the Exhibit F
15 page of Exhibit 7 referring to the
16 knowledge and insight, do you know if some
17 individuals are getting released solely
18 because they have knowledge and insight
19 into the debtors' business and
20 transactions?

21 MS. VANLARE: Objection. Calls
22 for privileged communication, attorney
23 work product.

24 I'm going to instruct the
25 witness not to answer.

1 P. Aronzon

2 Q. Are you going to follow your
3 counsel's advice?

4 A. Yes.

5 Q. If we flip to the next page,
6 page twenty-two of twenty-two of this PDF,
7 the second bullet point down states, "the
8 special committee's investigation has not
9 identified wrongdoing on the part of the
10 released Genesis personnel that would give
11 rise to claims or causes of action that
12 are likely to provide value to the
13 debtors' estates".

14 Do you see that?

15 A. Yes.

16 Q. What is meant by "provide value
17 to the debtors' estates" here?

18 MS. VANLARE: Objection. I
19 believe the document is clear.
20 Anything that's not publicly available
21 is going to be subject to privilege,
22 and I'm going to instruct the witness
23 not to answer.

24 Q. And are you following your
25 counsel's advice?

1 P. Aronzon

2 A. Yes.

3 Q. As a special committee member,
4 what would you consider value to the
5 debtors' estates here, in your opinion,
6 separate and apart from discussions with
7 counsel?

8 MS. VANLARE: Objection. Vague.

9 Are you talking about generally
10 what is value? More context.

11 MS. GRIFFITH: I'm talking about
12 what the witness would consider value
13 to the debtors' estates here in his
14 opinion as a special committee member
15 separate and apart from his
16 discussions with counsel.

17 MS. VANLARE: If there's any --
18 so objection to form.

19 But if there is anything that
20 you know that doesn't come from your
21 discussions with counsel, you may
22 answer. But otherwise, to the extent
23 the question calls for privileged
24 communications or attorney work
25 product, I'm going to instruct not to

1 P. Aronzon

2 answer.

3 THE WITNESS: Are you asking me
4 my own opinion of the word "value",
5 what does it mean?

6 Q. Yes, in this paragraph, how you
7 would interpret that, what that means.

8 A. In this paragraph relates to
9 attorney-client communication and
10 discussion.

11 Away from this paragraph, if you
12 give me a minute, I'll go get a
13 dictionary. It will tell me whether I
14 agree with it or not.

15 Q. So without a dictionary, do you
16 have an opinion as to what value to the
17 debtors' estates would be?

18 MS. VANLARE: Objection. Vague.

19 THE WITNESS: Just my own
20 personal opinion is that value can be
21 a lot of different things. It can be
22 -- I'm just going to go through a
23 list. There's no priority here. It's
24 whatever comes into my head at the
25 moment as I'm talking to you as if

1 P. Aronzon

2 this were a conversation.

3 But there's things like spending
4 time helping us in some manner or
5 fashion, working for us above and
6 beyond just normal salaries, because
7 we're talking about personnel here.
8 It can be paying money back to us. It
9 can be transferring assets to us other
10 than cash or paying money. It can be
11 a lot of things. It can be providing
12 assistance that is, you know, hard to
13 quantify. It's just a whole variety
14 of different things that any one of us
15 would consider valuable.

16 Q. Was everything that you
17 considered value as part of your analysis
18 of whether or not to grant releases
19 included on this justifications for the
20 release section?

21 MS. VANLARE: Objection.

22 Objection to form. Unclear.

23 Are you talking about the
24 entirety of the exhibit or are you
25 talking about the bullet point that

1 P. Aronzon

2 talks about wrongdoing and claims that
3 would or would not provide value?

4 MS. GRIFFITH: The entirety of
5 the exhibit. I was just responding to
6 the witness' last response.

7 THE WITNESS: Are you asking me
8 if, in the conversations with counsel,
9 we considered all those things that I
10 just like off the top of my head
11 mentioned as possible value
12 propositions?

13 Q. I was trying to understand if
14 those were actual value propositions that
15 you considered for this matter or if that
16 was just hypothetical examples of value
17 unconnected to this case.

18 MS. VANLARE: Objection.
19 Objection to form.

20 You may answer unless the --
21 however, to the extent the question
22 would reveal any attorney-client
23 privilege, I would caution you on that
24 point.

25 THE WITNESS: You asked me my

1 P. Aronzon

2 own opinion of value. I gave you some
3 ideas.

4 To the extent you're asking
5 about things on this page or in our
6 decision-making, you're asking about
7 the conversations with our counsel.

8 Q. If an employee was found to have
9 committed misconduct such that a claim or
10 cause of action could be brought against
11 that employee, would you consider any
12 recovery from that claim or cause of
13 action against that employee to be able to
14 fall under the value bucket to the estate
15 or could add value to the estate?

16 MS. VANLARE: Objection to form.

17 Again, counsel, are you asking
18 about the Exhibit 7 and the bullet
19 point that talks about claims not
20 providing value to the estate or
21 something else?

22 MS. GRIFFITH: No, that was not
23 connected to that. That was me trying
24 to understand the special committee
25 members' understanding of what could

1 P. Aronzon

2 constitute value.

3 MS. VANLARE: Could you maybe
4 restate the question?

5 MS. GRIFFITH: Sure.

6 Q. If an employee -- this is
7 separate and apart from what's on the page
8 here.

9 If a Genesis employee committed
10 misconduct.

11 Are you following that?

12 A. Are you asking me?

13 Q. Yes.

14 A. I'm following that, yes.

15 Q. This is a hypothetical.

16 A. Okay.

17 Q. If a Genesis employee committed
18 misconduct, the estate could potentially
19 bring litigation asserting a claim against
20 that employee for such misconduct;
21 correct?

22 MS. VANLARE: Objection.

23 THE WITNESS: Theoretically
24 possible.

25 Did you tell me not to answer

1 P. Aronzon

2 that or no?

3 MS. VANLARE: No, I was objecting
4 to the form.

5 THE WITNESS: Theoretically,
6 yes, we could.

7 Q. And if there was a recovery from
8 the pursuit of that cause of action or
9 claim against that employee, would you
10 consider that recovery to be value for the
11 estate?

12 MS. VANLARE: Objection.

13 I would caution you not to
14 reveal any attorney-client
15 communication, and I object to form.

16 To the extent you can answer the
17 question without revealing
18 attorney-client communication, you may
19 do so.

20 THE WITNESS: We're not talking
21 about this page, we're talking about
22 just my own understanding here?

23 Q. Correct.

24 A. So without referring to this
25 page or any of the prior questions about

1 P. Aronzon

2 our employees, if we're going to bring an
3 action against somebody -- and it doesn't
4 even have to be an employee, it could be
5 anybody -- one of the things we look at is
6 whether they could actually pay us back,
7 so creditworthiness and is it worth it.

8 So in that respect, I would
9 consider payments, if people have the
10 capacity to do so, to be valuable.

11 I'm sorry, did somebody say
12 something?

13 So I don't know if that answers
14 your question or not. But if somebody can
15 pay me back and I believe we have a claim
16 against them, then that's value that we
17 would certainly consider.

18 Q. So we're on the same page, I
19 just wanted to make sure we had the same
20 understanding about potential types of
21 value to the estate.

22 So now directing your attention
23 away from that hypothetical and back to
24 the bullet point in Exhibit 7 which states
25 "the special committee's investigation has

1 P. Aronzon

2 not identified wrongdoing on the part of
3 released Genesis personnel that would give
4 rise to claims or causes of action that
5 are likely to provide value to the
6 debtors' estate", what type of wrongdoing
7 was considered?

8 MS. VANLARE: Objection. I

9 believe the answer calls for
10 attorney-client communication and
11 attorney work product and, as such, I
12 would instruct the witness not to
13 answer.

14 Q. Are you following your counsel's
15 advice?

16 A. Yes.

17 Q. In your opinion, if a -- what
18 the publicly filed words on the page
19 state, "the special committee's
20 investigation has not identified
21 wrongdoing", why would a release be
22 necessary of individuals who committed no
23 wrongdoing?

24 MS. VANLARE: Objection. Calls

25 for a legal conclusion.

1 P. Aronzon

2 To the extent your answer would
3 reveal any attorney-client
4 communications, I would instruct you
5 not to answer the question.

6 Q. And I'm asking this in your
7 opinion as a special committee member that
8 had to make an independent decision on
9 these releases about whether or not to
10 accept recommendations and advice from
11 counsel.

12 So in your independent thought
13 process about whether to grant these
14 releases, have you considered why an
15 individual that the special committee has
16 not identified any wrongdoing on the part
17 of would need to be released?

18 MS. VANLARE: Objection. Calls
19 for a legal conclusion.

20 And also, to the extent your
21 answer would reveal any
22 attorney-client communications, I
23 would instruct you not to answer.

24 Q. Have you considered this
25 separate and apart from counsel?

P. Aronzon

A. Not in the context of our case,
no.

Q. Okay.

The next bullet point on this
page states, "any surviving claims against
the released Genesis personnel would be
costly and unlike to result in significant
recoveries for the debtors' estates
because of the very limited directors and
officers insurance coverage, which at
present provides no more than 8.7 million
in coverage".

What was the estimated cost of
bringing any surviving claims against the
released Genesis personnel?

MS. VANLARE: Objection.

The answer calls for attorney
work product and, as such, I would
instruct the witness not to answer.

Q. Are you following your counsel's
advice?

A. Yes.

Q. Was the estimated cost of
bringing any surviving claims against the

1 P. Aronzon

2 released Genesis personnel a fact that the
3 special committee considered when deciding
4 whether or not to grant releases?

5 MS. VANLARE: Objection.

6 To the extent you can answer
7 without revealing attorney-client
8 communication, you may do so.

9 THE WITNESS: I can't answer it
10 without referring to what we discussed
11 with counsel.

12 Q. What surviving claims against
13 the released Genesis personnel are
14 referred to in this bullet point as a
15 justification for why these individuals
16 should be released?

17 MS. VANLARE: Objection.

18 Calls for privileged
19 communication and attorney work
20 product and, as such, I would instruct
21 the witness not to answer.

22 Q. Are you following your counsel's
23 advice?

24 A. Yes.

25 Q. Do you know if all of the

1 P. Aronzon

2 individuals that are currently on the
3 released Genesis personnel list were
4 covered by directors and officers
5 insurance?

6 MS. VANLARE: Objection.

7 If you have any knowledge
8 separate and apart from discussions
9 with counsel, you may answer.

10 Otherwise, I would instruct you
11 not to answer.

12 Q. You may answer.

13 A. I'm trying to figure out if I
14 know anything away from our discussions
15 with counsel.

16 What's the question again? I'm
17 sorry.

18 You're asking me if people are
19 not insured; is that what you're asking
20 me?

21 Q. No, I'm asking you if all of the
22 individuals that are currently on the
23 released Genesis personnel list would be
24 covered by directors and officers
25 insurance.

1 P. Aronzon

2 Was that a fact or something
3 that the special committee looked into as
4 part of its investigation?

5 MS. VANLARE: Objection. Calls
6 for attorney work product.

7 As such, I would instruct the
8 witness not to answer.

9 Q. Are you following your counsel's
10 advice?

11 A. Yes.

12 Q. The first bullet point on this
13 page -- and I'll just read the first
14 sentence out loud but feel free to read
15 the whole paragraph -- states, "the
16 released Genesis personnel are entitled to
17 indemnification pursuant to the debtors'
18 governing documents".

19 THE WITNESS: This is the first
20 bullet on this page?

21 Q. Do you see that first paragraph?

22 A. Yes.

23 Q. In granting releases to those on
24 the released Genesis personnel list, was a
25 factor considered by the special committee

1 P. Aronzon

2 whether an individual was entitled to
3 indemnification pursuant to the debtors'
4 governing documents?

5 MS. VANLARE: Objection to form.

6 You may answer yes or no.

7 THE WITNESS: Yes.

8 Q. Did the special committee
9 confirm that each and every one of the
10 individuals on the released Genesis
11 personnel list was, in fact, entitled to
12 indemnification pursuant to debtors'
13 governing documents?

14 MS. VANLARE: Objection. Calls
15 for privileged communication and
16 attorney work product.

17 I'm going to instruct the
18 witness not to answer.

19 Q. And are you following your
20 counsel's advice?

21 A. Yes.

22 Q. Another bullet point on this
23 page states that "the debtors' releases of
24 the released Genesis personnel expressly
25 exclude any claims arising out of gross

1 P. Aronzon

2 negligence, fraud, or willful misconduct
3 as determined by a final order".

4 Do you see that?

5 A. Yes.

6 Q. Has the special committee
7 estimated or considered an estimated value
8 of the total claims that would arise out
9 of gross negligence, fraud, or willful
10 misconduct that could be brought against
11 released Genesis personnel?

12 MS. VANLARE: Objection. Calls
13 for privileged communication and
14 attorney work product.

15 As such, I'm going to instruct
16 the witness not to answer.

17 Q. Are you following your counsel's
18 direction?

19 A. Yes.

20 Q. Is it your understanding that
21 individuals on the released Genesis
22 personnel list are being released from all
23 claims besides gross negligence, fraud, or
24 willful misconduct?

25 MS. VANLARE: Objection.

1 P. Aronzon

2 To the extent you know the
3 answer to that, you may answer it.
4 However, I would caution you not to
5 reveal any attorney-client
6 communication or attorney work
7 product.

8 THE WITNESS: I'd have to look
9 at the release together with you, but
10 I think that's correct, they are being
11 released from any and all claims other
12 than the ones specified in this
13 bullet.

14 Q. And does any and all claims
15 include known and unforeseen claims?

16 MS. VANLARE: Objection.

17 THE WITNESS: Again, I'd have to
18 look at the release, but I believe
19 that's correct.

20 Q. What benefit is the estate
21 receiving from releasing individuals from
22 unforeseen claims?

23 MS. VANLARE: Objection.

24 You have publicly filed
25 documents. Anything beyond that is

1 P. Aronzon

2 subject to attorney-client privilege
3 and attorney work product, and as
4 such, I would instruct the witness not
5 to answer.

6 MS. GRIFFITH: What publicly
7 filed documents are you referencing?

8 MS. VANLARE: The disclosure
9 statement in the plan supplement.

10 Q. Would you be able to point me,
11 Mr. Aronzon, to where it talks about that
12 in the publicly filed documents? Are you
13 familiar with that?

14 MS. VANLARE: Objection.

15 THE WITNESS: Well -- go ahead,
16 Jane.

17 MS. VANLARE: Objection to form.

18 If you know, you may answer.

19 THE WITNESS: I know that there
20 are provisions in the plan that
21 provide for the release and carveouts.
22 I know that there is some language in
23 the disclosure statement, I don't know
24 page numbers for either, and you have
25 on the screen in front of you the

1 P. Aronzon

2 answer to the questions you just asked
3 me, which is, you know, what is it
4 that -- I guess it's what is the
5 estate receiving and why are you doing
6 this. It's all listed there.

7 Q. So because I need to hear it,
8 there was a lot of attorney-client
9 privilege objections.

10 In your voice and in your
11 opinion, what value is the estate
12 receiving?

13 MS. VANLARE: Objection.

14 Q. For granting releases of all of
15 the individuals listed on the released
16 Genesis personnel list.

17 MS. VANLARE: Objection. Asked
18 and answered. The witness has
19 answered your question.

20 Q. You can answer.

21 A. The values listed on these pages
22 that we're looking at in this exhibit, is
23 it number seven or Exhibit F, I guess it
24 is. And they're laid out here.

25 Q. Which -- are you referring to

1 P. Aronzon

2 bullet points? What bullet points are you
3 referring to?

4 A. All of them under section two.

5 Q. So help me understand that.

6 The one we referred to, "the
7 special committee's investigation has not
8 identified wrongdoing on the part of the
9 released Genesis personnel that would give
10 rise to claims or causes of action that
11 are likely to provide value to the
12 debtors' estates".

13 How does that add value to the
14 debtors' estates?

15 MS. VANLARE: Objection. Being
16 argumentative. The witness has
17 already explained that the exhibit
18 provides justifications for the
19 releases and it does that and that's
20 what it states on the page. He's
21 already answered the question many
22 times.

23 Q. You can answer.

24 A. If we can't recover value, we'd
25 be wasting money, creditors' money, in

1 P. Aronzon

2 chasing it.

3 Q. Are all -- is all of the value
4 that the estate gets from consenting to
5 the release of those on the released
6 Genesis personnel list included in this
7 Exhibit F or are there things outside of
8 that's listed on Exhibit F?

9 MS. VANLARE: Objection. Calls
10 for privileged communications and
11 attorney work product and, as such, I
12 will instruct the witness not to
13 answer.

14 Q. I'm not asking about his
15 communications with counsel, I'm asking is
16 all of the value on this publicly filed
17 page or is there something else that you
18 discussed with counsel. I don't want to
19 know the substance, I don't want to know
20 what you discussed with counsel. I just
21 want to know is this a comprehensive
22 summary or is there something else out
23 there?

24 MS. VANLARE: Objection.

25 To the extent you can answer

1 P. Aronzon

2 without revealing any attorney-client
3 communications or attorney work
4 product, you may do so.

5 THE WITNESS: I can't answer it
6 without disclosing conversations with
7 counsel.

8 Q. Then I'm going to refer us back
9 to the amended disclosure statement, which
10 was Exhibit 6.

11 A. So I can close this Exhibit 7?

12 Q. And on page one hundred three on
13 the bottom part of the page, page one
14 hundred eighteen of three hundred six of
15 the PDF, there's a footnote sixteen.

16 A. Hold on.

17 MS. VANLARE: I apologize, what
18 was the page numbers?

19 MS. GRIFFITH: Sure.

20 So the bottom page number is
21 page one hundred three and the top
22 page number is page one hundred
23 eighteen of three hundred six of the
24 PDF.

25 THE WITNESS: Page one hundred

1 P. Aronzon

2 eighteen of three hundred six.

3 Q. And do you see footnote sixteen
4 contains a definition for released party
5 in the amended plan?

6 A. Yes.

7 Q. And this definition of released
8 party is different than the definition of
9 released Genesis personnel that we were
10 just looking at in the plan supplement;
11 correct?

12 A. If you say so. I don't have the
13 definition of released Genesis parties in
14 front of me, but I believe you're correct.

15 Q. And released party as defined in
16 the amended plan includes the debtors;
17 right?

18 A. Yes.

19 Q. The ad hoc group's steerco and
20 its members solely in their capacities as
21 such; correct?

22 A. Yes.

23 Q. The committee and its members
24 solely in their capacities as such?

25 A. Yes.

1 P. Aronzon

2 Q. And each related party of each
3 entity described in the foregoing clauses
4 little Roman numeral I through three, in
5 each case solely in its capacity as such?

6 A. Yes, that's what this says.

7 Q. Do you know why the umbrella
8 term "related party" is being used instead
9 of individually listing individuals and
10 entities that would constitute a related
11 party in this definition?

12 MS. VANLARE: Objection.

13 Calls for a legal conclusion.

14 To the extent -- to the extent
15 answering this question would reveal
16 any attorney-client communications or
17 attorney work product, I would caution
18 the witness on that fact and instruct
19 the witness not to answer.

20 Q. You may answer if you're able
21 to.

22 A. I'd have to see the definition
23 of related party, and then I'd have to
24 consider what was just stated in the
25 objection.

1 P. Aronzon

2 Q. Could you, sitting here today,
3 tell me any person or entity that's
4 considered a related party?

5 MS. VANLARE: Objection.

6 THE WITNESS: Without looking at
7 the definition, I'm guessing.

8 Q. You could -- where in this
9 disclosure statement is related party
10 defined?

11 MS. VANLARE: Objection.

12 Q. Do you know?

13 A. I would -- I'm guessing. But if
14 you look at the plan definition, there's
15 probably a definition of related party,
16 but I'd have to go look.

17 Do you want to show it to me?
18 Do you want to find it and pull it out?

19 Q. While we have this exhibit open,
20 it's page one hundred eighty-three of
21 three hundred six.

22 A. One hundred eighty-three?

23 Q. And it's defined term number one
24 hundred seventy-nine.

25 A. I'm looking at page one hundred

1 P. Aronzon

2 eighty-three of three hundred six, and I
3 don't see that.

4 One hundred seventy-nine? Okay,
5 it is on page one hundred eighty-four of
6 what I'm looking at.

7 Q. And I'll read the definition out
8 loud.

9 So related party means, with
10 respect to any entity, such entity's
11 predecessors, successors, and assigns,
12 parents, subsidiaries, affiliates, and all
13 of the respective current and former
14 officers and directors, principals,
15 shareholders, members, managers, partners,
16 employees, agents, trustees, advisory
17 board members, financial advisors,
18 attorneys, accountants, actuaries,
19 investment bankers, consultants,
20 representatives, management companies, and
21 such persons respective of heirs,
22 executors, estates, servants, and
23 nominees.

24 Do you see that?

25 A. Yes.

1 P. Aronzon

2 Q. That covers potentially a lot of
3 different people and entities; correct?

4 MS. VANLARE: Objection.

5 THE WITNESS: I'm sorry, I
6 didn't hear what you said.

7 Q. In your opinion --

8 A. Jane, Jane.

9 MS. VANLARE: Objection to form,
10 but you may answer.

11 THE WITNESS: Okay, okay.

12 So it covers -- your statement
13 is it covers a lot of different people
14 and entities? Yes, it does.

15 Q. So as a special committee
16 members charged with authorizing releases
17 in this matter, how did you feel
18 comfortable that all of the people and
19 entity that would fall under the
20 definition of related party warrant a
21 release?

22 MS. VANLARE: Objection.

23 Objection to form and objection to the
24 extent the answer calls for privileged
25 communications.

1 P. Aronzon

2 I would instruct the witness not
3 to answer to the extent your answer
4 would involve any attorney-client
5 communications or attorney work
6 product.

7 THE WITNESS: I can't really
8 answer the specific question without
9 referring to the discussions with our
10 counsel.

11 Q. Did you consider whether a list
12 of the specific individuals and entities
13 should be used instead of the umbrella
14 definition term "related party"?

15 MS. VANLARE: Objection. Calls
16 for privileged communications and
17 attorney work product, and as such, I
18 would instruct the witness not to
19 answer.

20 Q. Are you following your counsel's
21 instructions?

22 A. Yes.

23 Q. Can you, sitting here today,
24 name even one example of an entity or
25 individual that potentially could fall

1 P. Aronzon

2 under the definition of related party?

3 MS. VANLARE: Objection.

4 I would just caution the
5 witness, to the extent we are subject
6 to a reaction order, we would -- I
7 don't know if your answer would call
8 for revealing any specific individuals
9 or institutions, but I would caution
10 the witness, in the event that it may,
11 given the confidentiality
12 considerations and the judge's rulings
13 and instructions on the record on that
14 point.

15 THE WITNESS: I have no idea
16 what you just said in terms of the
17 limitations on what I can and can't
18 say.

19 Can I answer it like about
20 myself?

21 MS. VANLARE: Yes.

22 THE WITNESS: Fine.

23 I'm a director, and to the
24 extent the debtor is granting a
25 director release, I would get one.

1 P. Aronzon

2 Q. What investigation did the
3 special committee conduct into potential
4 causes of actions or claims that may exist
5 against related parties?

6 MS. VANLARE: Objection. Calls
7 for attorney-client privilege and
8 attorney-client communication and, as
9 such, I would instruct the witness not
10 to answer.

11 Q. Are you following your counsel's
12 instruction?

13 A. Yes.

14 Q. Did the special committee
15 conduct an investigation into potential
16 causes of actions or claims against
17 related parties?

18 MS. VANLARE: Objection.

19 The investigation -- the
20 information relating to the
21 investigation is in the publicly filed
22 documents.

23 To the extent the information is
24 not there, it would be subject to
25 privilege and, as such, I would

1 P. Aronzon

2 instruct the witness not to answer.

3 Q. Are you following your counsel's
4 advice there?

5 A. Yes.

6 Q. Do you know of any going back to
7 the definition of released party which was
8 on page one hundred eighteen of three
9 hundred six of this exhibit?

10 A. Is it also the definition right
11 below the one I just looked at so I don't
12 have to change pages?

13 Q. I believe so. So let's look at
14 it there to make it easy.

15 A. Okay.

16 Q. Do you know if any individual or
17 entity on this list withdrew any assets
18 from Genesis within one year of the
19 petition date?

20 MS. VANLARE: Counsel, objection.
21 You asked these questions before.

22 So objection to form.

23 Objection. Asked and answered.

24 And again, as before, I'm going
25 to instruct the witness not to answer

1 P. Aronzon

2 as your question calls for privileged
3 communication and attorney work
4 product.

5 Q. Are you following your counsel's
6 directions?

7 A. Yes.

8 Q. Who investigated whether the
9 special committee members should be
10 released is?

11 MS. VANLARE: Objection.

12 To the extent the question calls
13 for attorney-client privilege or
14 attorney work product, I'm going to
15 instruct you not to answer.

16 Q. You can answer.

17 A. The question is who
18 investigated?

19 Q. Yes.

20 A. I don't know how to answer this
21 without referring to counsel, so --
22 because counsel investigated it.

23 Q. And when you say "counsel", does
24 that mean Cleary?

25 A. Yes.

1 P. Aronzon

2 Q. So a couple of more questions on
3 a different topic.

4 But before moving on to that
5 topic, is it your contention, sitting here
6 today, that the releases that will be
7 granted to those that fall under the
8 definition of released party and those
9 that are on the released Genesis personnel
10 list are valid?

11 MS. VANLARE: Objection.

12 Objection to the form. Calls for a
13 legal conclusion.

14 And to the extent the answer
15 calls for privileged communication and
16 attorney work product, I would
17 instruct the witness not to answer.

18 Q. I'm asking the special committee
19 member.

20 Is it the special committee's
21 contention that the releases contemplated
22 in the plan are valid?

23 MS. VANLARE: Objection to form.

24 I don't know what you mean by this.

25 And again, I would caution the

1 P. Aronzon

2 witness not to reveal any
3 attorney-client communication or
4 attorney work product.

5 MS. GRIFFITH: I'll rephrase.

6 Q. Is it the special committee's
7 contention that the releases contemplated
8 in the plan are appropriate?

9 MS. VANLARE: Objection.

10 You may even to the extent you
11 can without revealing any
12 attorney-client communication or
13 attorney work product.

14 THE WITNESS: Yes.

15 Q. Can you please explain each and
16 every fact that you rely on to come to
17 that conclusion?

18 MS. VANLARE: Objection.

19 That calls for attorney-client
20 communication and attorney work
21 product, and as such, I would instruct
22 the witness not to answer.

23 Q. Are you following your counsel's
24 direction?

25 A. Yes.

1 P. Aronzon

2 Q. Do you or your fellow special
3 committee member plan to testify at the
4 plan confirmation hearing?

5 MS. VANLARE: Objection. Calls
6 for attorney-client communication,
7 attorney work product.

8 I would instruct the witness not
9 to answer.

10 Q. Are you following your counsel's
11 advice?

12 A. Yes.

13 Q. So it's clear for the record,
14 are you refusing to provide an answer
15 about any fact that you will rely on to
16 come to your conclusion about why the
17 releases in the plan are appropriate?

18 MS. VANLARE: Counsel, objection.
19 You are -- the witness is not refusing
20 to answer. The witness has been
21 answering your questions for several
22 hours now. There is -- as we reviewed
23 during this deposition, there are
24 justifications for releases and
25 exculpations that are provided as part

1 P. Aronzon

2 of the plan supplement and in the
3 disclosure statement, the witness has
4 testified about that information, so
5 objection to your characterization.
6 It is absolutely not the case that the
7 witness is refusing.

8 To the extent your questions
9 called for attorney work product or
10 attorney-client communications, I am
11 instructing the witness not to answer
12 those questions.

13 Q. So are you following your
14 counsel's directions to not respond to my
15 question right now about what facts you're
16 relying on in coming to the condition
17 conclusion that the releases in the plan
18 are appropriate?

19 MS. VANLARE: Objection. All the
20 same objections. Asked and answered.

21 And again, as your question
22 calls for privileged communication and
23 attorney work product, I would
24 instruct the witness not to answer.

25 Q. Are you following your counsel's

1 P. Aronzon

2 directions?

3 A. Yes.

4 Q. Are you refusing to answer this
5 question on the basis of privilege?

6 MS. VANLARE: Objection.

7 He is not refusing to answer the
8 question. I am instructing the
9 witness not to answer the question.

10 Q. Are you following your counsel's
11 instruction not to answer the question on
12 the basis of privilege?

13 A. Yes.

14 Q. In addition to the information
15 in the plan supplement and the disclosure
16 statement, what facts did you rely on in
17 deciding that the releases in the plan are
18 appropriate?

19 MS. VANLARE: Objection. Calls
20 for attorney-client communication and
21 attorney work product and, as such, I
22 would instruct the witness not to
23 answer.

24 MS. GRIFFITH: On what basis are
25 the facts that the special committee

1 P. Aronzon

2 member relied on in making an
3 independent determination about
4 whether the releases in the plan are
5 appropriate attorney-client
6 privileged?

7 MS. VANLARE: Objection. That's
8 not an appropriate question.

9 MS. GRIFFITH: That's my question
10 to you. I'm challenging your
11 objection.

12 MS. VANLARE: I see.

13 The scope of the investigation
14 is attorney work product. Any
15 communications that may have occurred
16 between counsel and the witness are
17 privileged communications and, as
18 such, questions that call for the
19 witness to reveal any of that
20 information are not allowed, and I am
21 instructing the witness not to answer
22 them.

23 Q. And to be clear, for the record,
24 I am not asking about your communications
25 with counsel, I am asking about the

1 P. Aronzon

2 underlying facts which are not privileged
3 information that you considered and relied
4 on in coming to the conclusion that the
5 releases contemplated in the plan are
6 appropriate.

7 MS. VANLARE: Counsel, we have
8 discussed for again many hours the --
9 you've asked many questions on the
10 topic, the witness has responded to
11 many questions on the topic to the
12 extent that he has any facts
13 independent of client communications.

14 To the extent your questions
15 call for information, facts, or legal
16 conclusions that he has based on
17 conversations with counsel and that
18 are a result of attorney work product,
19 those are privileged.

20 MS. GRIFFITH: So are you
21 directing your attention not to answer
22 my question?

23 MS. VANLARE: I need to look back
24 to what your question was, but I
25 believe that was my objection, yes,

1 P. Aronzon

2 and my instruction.

3 MS. GRIFFITH: Court reporter,
4 could you read back my question,
5 please.

6 (Whereupon the requested portion
7 was read back by the reporter)

8 MS. VANLARE: I believe you said
9 that that was not a question for the
10 witness.

11 MS. GRIFFITH: No, my -- I had a
12 separate comment to you which I could
13 scroll back.

14 That was a question for the
15 witness. The one I asked you is
16 further up.

17 My question to you is.
18 Question: "On what basis are the facts
19 that the special committee member
20 relied on in making an independent
21 determination about whether the
22 releases in the plan are appropriate
23 attorney-client privileged".

24 The question that the court
25 reporter just read back is the

1 P. Aronzon

2 question that I posed to the witness,
3 which is pending.

4 MS. VANLARE: Sorry, can you read
5 that question again?

6 (Whereupon the requested portion
7 was read back by the reporter)

8 MS. VANLARE: I have stated my
9 objection on the many times. Again,
10 the witness has testified to his
11 knowledge separate and apart from
12 counsel. Any information beyond
13 what's already publicly available in
14 the disclosure statement and the plan
15 supplement and the information he's
16 already testified to as to his own
17 knowledge, that would be privileged
18 communications with counsel and
19 attorney work product and, as such, I
20 would instruct the witness not to
21 answer.

22 Q. And are you following your
23 counsel's directions not to answer on the
24 basis of privilege?

25 A. Yes.

1 P. Aronzon

2 Q. Then shifting topics, only a
3 couple of questions left -- and thank you
4 very much for your endurance here --

5 MS. GRIFFITH: Matthew, if you
6 could bring up the final exhibit, and
7 we will call this Exhibit 8.

8 (Whereupon, a document entitled
9 Notice of Filing of Plan Supplement
10 was marked Aronzon Exhibit 8
11 for identification.)

12 THE WITNESS: I'm closing six; is
13 that okay?

14 Q. Yes.

15 And are you able to open this
16 exhibit?

17 A. Yes.

18 Q. And this exhibit is notice of
19 filing of plan supplement for the debtors'
20 amended joint Chapter 11 plan publicly
21 filed on the docket as document 1144.

22 And if you scroll down in the
23 exhibit, there's an Exhibit M which is
24 titled Setoff Principles For Allowance of
25 Certain Claims.

1 P. Aronzon

2 A. Okay.

3 Q. And my question to you is: Why
4 is the debtor using the petition date
5 valuation for claims that the debtor has
6 against creditors who borrowed crypto from
7 the debtor?

8 MS. VANLARE: Objection.
9 Objection to form.

10 To the extent the question would
11 reveal any privileged communication, I
12 would caution you. If you know the
13 answer to the question aside from
14 privileged communication, you may
15 answer it.

16 THE WITNESS: I really can't
17 answer this without going into
18 privileged information.

19 Q. If the debtor is using current
20 pricing for claims the debtor has against
21 creditors that borrowed crypto, would that
22 impact the net claim values?

23 MS. VANLARE: Objection.

24 Counsel, it's not clear to me
25 what you're asking. I don't know if

1 P. Aronzon

2 it's clear to the witness.

3 Are you referring to a specific
4 part of the exhibit?

5 MS. GRIFFITH: I'm referring to
6 the setoff principles.

7 Q. And so the setoff principles
8 have the debtor using petition date
9 valuation for claims the debtor have
10 against creditors that borrowed crypto;
11 correct? Do you know if that's correct?

12 MS. VANLARE: Objection.

13 You may answer if you understood
14 the question.

15 THE WITNESS: I'm not sure I do.

16 Q. Are you aware that the debtor
17 has some claims against creditors that
18 borrowed crypto?

19 MS. VANLARE: Objection.

20 You may answer.

21 THE WITNESS: Okay.

22 I don't know how to answer this.
23 Because as I'm sitting right here
24 looking at the language, I'm not
25 seeing what you're referring to.

1 P. Aronzon

2 Q. Well, we can ask this question
3 apart from the document.

4 So you can put the document
5 aside and I could just ask in general with
6 your understanding of the plan, are you
7 aware that the debtors have claims against
8 creditors that borrowed cryptocurrency
9 from the debtors?

10 A. So we -- the debtor loaned
11 crypto assets to an individual; is that
12 your -- is that what you're saying?

13 Q. Yes, that's what I'm asking.
14 Are you aware if that is the
15 case?

16 A. And if we did loan it, those
17 people owe us something; is that your
18 point?

19 Q. Yes, that's what I'm asking you
20 to confirm, if that's your understanding.

21 MS. VANLARE: Objection.

22 You may answer.

23 THE WITNESS: Yeah, I'm trying
24 to think about this and I'm looking at
25 this exhibit to see if it helps me.

P. Aronzon

Look, we were in the lending business, so Genesis would loan cash or digital assets to counterparties and in some instances those counterparties would pledge cash or digital assets to collateralize our loan. In other instances, we would loan cash or digital assets to a counterparty and sometimes we would borrow cash or digital assets from the same counterparty. Those are two categories that I know of that we attempted to I guess describe in this exhibit. In those settings, there may be setoff principles that come to apply so that you get to a net number for the claim.

Q. And in those instances that you just described where Genesis would loan cash or digital assets to counterparties, Genesis would have a claim against those individuals that it loaned cash or digital assets to; correct?

A. Those people would owe us money,

1 P. Aronzon

2 correct.

3 Q. And to determine the amount that
4 those people owe under the setoff
5 principles as it's currently drafted, is
6 it correct that petition date valuation is
7 being used to calculate the amount that is
8 currently owed?

9 MS. VANLARE: Objection.

10 THE WITNESS: There's no set off
11 unless they also pledged collateral or
12 we separately from the identical party
13 borrowed assets or cash. So there's
14 two parts to this. You don't get one
15 without the other.

16 In either of those two cases, we
17 would net one against the other to
18 come up with a claim, either they owe
19 us or we owe them depending on the
20 netting.

21 If your question is did we use
22 the petition date for both of those
23 purposes, I believe the answer is yes.

24 Q. And by using petition date
25 valuation for both of those consensus, as

1 P. Aronzon

2 I just said, wouldn't that result in
3 creditors that borrowed cryptocurrency
4 receiving a higher value than creditors
5 that did not borrow cryptocurrency?

6 MS. VANLARE: Objection.

7 THE WITNESS: The claim on the
8 petition date is a certain amount and
9 the value of where it's coined is a
10 certain amount and the net amount
11 results in a net claim for or against
12 depending on the numbers. So without
13 looking at a specific claim or an
14 example, it's almost impossible for me
15 to guess to answer you directly, but
16 it could result in a claim being
17 bigger because the value of crypto on
18 the petition date might have been less
19 than, for instance, it is today or
20 some other date.

21 You look at the petition date
22 for the two numbers and you do a
23 netting and it goes one way or the
24 other. If you pick a different date
25 for the netting, you'd get a different

P. Aronzon

answer.

MS. GRIFFITH: Okay.

I have no further questions, and
I'm very appreciative of your time
today.

THE WITNESS: Okay.

MS. GRIFFITH: Thank you very
much.

I don't know if any other
counsel has questions on the line, but
no further questions from me.

Thank you again.

EXHIBIT 4

Emails Exchanged Between McDermott and Cleary, Dated February 6-7, 2024

From: [Evans, Joseph](#)
To: [Hatch, Miranda](#); [O'Neal, Sean A.](#); [VanLare, Jane](#); [Weaver, Andrew](#); [Kessler, Thomas](#); [Kim, Hoori](#); [Kowiak, Michael](#)
Cc: [Azman, Darren](#); [Griffith, Greer](#); [Steinman, Gregg](#); [Gibson, Matthew](#); [Herbert, Campbell](#)
Subject: RE: Genesis - Confirmation Hearing Schedule
Date: Wednesday, February 7, 2024 10:21:25 AM

Counsel,

The Crypto Creditors Ad Hoc Group objects to the testimony of Paul Aronzon and Joseph Sciametta, but only to the extent that their fact declarations or testimony concerns the proposed releases. We plan to file a motion on this subject on the grounds that these witnesses (and by extension the Special Committee and A&M) were directed to not answer factual questions concerning the basis for the releases during the depositions, took that direction and refused to answer such questions, and otherwise refused to provide any factual information supporting the proposed releases. Similarly, the Debtors refused to provide any information concerning the releases other than the identities of the Released Genesis Personnel and a single public filing. We are available to meet and confer on this issue at your earliest convenience.

Joe

JOSEPH B. EVANS

Partner

McDermott Will & Emery LLP One Vanderbilt Avenue, New York, NY 10017-3852

Tel +1 212 547 5767 **Mobile** +1 917 841 4738 **Email** jbevans@mwe.com

[Biography](#) | [Website](#) | [vCard](#) | [LinkedIn](#)

Mabel Albino, Assistant to Joseph B. Evans

Tel 212-547-5499 **Email** malbino@mwe.com

From: Hatch, Miranda <mhatch@cgsh.com>

Sent: Tuesday, February 6, 2024 6:29 PM

To: O'Neal, Sean A. <soneal@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Kim, Hoori <hokim@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>

Subject: RE: Genesis - Confirmation Hearing Schedule

[External Email]

All –

Below is the final list of the designated confirmation hearing witnesses. Please let us know if you have any objections to the below list. Pursuant to the schedule, if there are any objections, we will schedule a meet and confer by 12:00 P.M. (Eastern Time) tomorrow to discuss. We will file the witness list noting the identity of any party objecting to a witness with the Court by 4:00 P.M. (Eastern Time) tomorrow.

Debtors

Paul Aronzon

Joseph Sciametta

Alex Orchowski, on behalf of Kroll Restructuring Administration, LLC

UCC

Brad Geer

-

DCG

Adam Verost

-

Crypto Creditor Ad Hoc Group

Crypto Creditor Group Declarant #1

Crypto Creditor Group Declarant #2

Best,

Miranda Hatch

Miranda Hatch

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York NY 10006
T: +1 212 225 2662
mhatch@cgsh.com | clearygottlieb.com

From: Hatch, Miranda

Sent: Tuesday, February 6, 2024 2:17 PM

To: sean o neal (soneal@cgsh.com) <soneal@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>;
Weaver, Andrew <aweaver@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Kim, Hoori
<hokim@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>

Subject: Genesis - Confirmation Hearing Schedule

All –

See attached for the pre-hearing confirmation schedule and the form spreadsheet for exhibits.

Please return this filled out form by Wednesday (2/7) at 3:00 P.M. (Eastern Time). The Debtors will compile and circulate a combined list and the parties will then work to finalize Joint Exhibits.

Further, pursuant to the attached schedule, please confirm whether you plan to call any witnesses for the hearing so we can finalize the witness list for the Court and circulate among the parties.

Best,

Miranda Hatch

Miranda Hatch

Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York NY 10006
T: +1 212 225 2662
mhatch@cgsh.com | clearygottlieb.com

This message is being sent from a law firm and may contain confidential or privileged information. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy.

Throughout this communication, "Cleary Gottlieb" and the "firm" refer to Cleary Gottlieb Steen & Hamilton LLP and its affiliated entities in certain jurisdictions, and the term "offices" includes offices of those affiliated entities. Our external privacy statement is available at: <https://www.clearygottlieb.com/footer/privacy-statement>

EXHIBIT 5

Emails Exchanged Between McDermott and Cleary, Dated February 3-4, 2024

From: [Kim, Hoori](#)
To: [Griffith, Greer](#); [VanLare, Jane](#); [Kessler, Thomas](#); [O'Neal, Sean A.](#); [Weaver, Andrew](#)
Cc: [Azman, Darren](#); [Evans, Joseph](#); [Steinman, Gregg](#); [Gibson, Matthew](#); [Kowiak, Michael](#); [Wolfe, Timothy](#)
Subject: RE: Genesis - Discovery Issues
Date: Sunday, February 4, 2024 3:16:51 PM

Some people who received this message don't often get email from hokim@cgsh.com. [Learn why this is important](#)

[External Email]

Greer,

We are fine with declassifying pages 128:25 - 266:13 of the Paul Aronzon transcript being designated as Confidential Information.

We will not be providing the findings from the Investigation or information related to the interviews in connection with the Investigation as these are privileged information, as objected to during Mr. Aronzon's deposition as well.

Best,
Hoori

Hoori Kim

Cleary Gottlieb Steen & Hamilton LLP
Assistant: casanchez@cgsh.com
One Liberty Plaza, New York NY 10006
T: +1 212 225 2392
hokim@cgsh.com | clearygottlieb.com

From: Griffith, Greer <Ggriffith@mwe.com>
Sent: Saturday, February 3, 2024 5:10 PM
To: VanLare, Jane <jvanlare@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Massey, Jack <jamassey@cgsh.com>; O'Neal, Sean A. <soneal@cgsh.com>; Kim, Hoori <hokim@cgsh.com>; Weinberg, Michael <mdweinberg@cgsh.com>; Minott, Richard C. <rminott@cgsh.com>; Ribeiro, Christian <cribeiro@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Zutshi, Rishi N. <rzutshi@cgsh.com>; sabremer@cgsh.com
Cc: Azman, Darren <Dazman@mwe.com>; Evans, Joseph <Jbevans@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>; Gibson, Matthew <Mgibson@mwe.com>
Subject: Genesis - Discovery Issues

Jane and Tom,

It is our understanding that the deposition transcript of Paul Aronzon is presumptively treated as Confidential Information. We are writing to object to pages 128:25 - 266:13 of the Paul Aronzon transcript being designated as Confidential Information. Please let us know whether you will agree to declassify this testimony as Protected Information.

Additionally, page 36 of the *Amended Disclosure Statement with Respect to the Amended Joint Plan of Genesis Global Holdco, LLC et al., Under Chapter 11 of the Bankruptcy Code* [Doc. 1031] ("Amended Disclosure Statement") states, "Cleary has shared the findings from the Investigation with the Special Committee and counsel to the UCC and the Ad Hoc Group." Please immediately produce these findings as they are squarely responsive to Request No. 6 in the Crypto Ad Hoc Group's Second Request for Production. Please also immediately confirm whether the detailed investigation reports that were shared with the Special Committee (which Mr. Aronzon testified about during his deposition) were shared with counsel to the UCC and the Ad Hoc Group. If so, please immediately produce these detailed reports as well.

Request No. 10 of the Crypto Ad Hoc Group's Second Request for Production requested "All copies of investigation interviews, deposition transcripts, sworn statements, or any other written or oral statements provided by any of the Released Parties and any of the Released Genesis Personnel in connection with any internal or external investigation that occurred during period of two years prior to the Petition Date to the present." Please immediately produce copies of the list of individuals interviewed, interview notes, interview memos, interview transcripts, and/or witness statements in connection with the 30 interviews that Cleary conducted which are referenced on page 36 of the Amended Disclosure Statement and were referenced during the deposition of Mr. Aronzon.

Please confirm whether you will agree to declassify Mr. Aronzon's deposition testimony and produce the requested documents by Monday, February 5 at 10 a.m.

Greer

GREER GRIFFITH

Partner

McDermott Will & Emery LLP One Vanderbilt Avenue, New York, NY 10017-3852

Tel +1 212 547 5578 **Mobile** +1 215 913 1418 **Email** ggriffith@mwe.com

Biography | **Website** | **vCard** | **LinkedIn**

This message is a PRIVATE communication. This message and all attachments are a private communication sent by a law firm and may be confidential or protected by privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the information contained in or attached to this message is strictly prohibited. Please notify the sender of the delivery error by replying to this message, and then delete it from your system. Our [Privacy Policy](#) explains how we may use your personal information or data and any personal information or data provided or made available to us. Thank you.

Please visit <http://www.mwe.com/> for more information about our Firm.

This message is being sent from a law firm and may contain confidential or privileged information. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy.

Throughout this communication, "Cleary Gottlieb" and the "firm" refer to Cleary Gottlieb Steen & Hamilton LLP and its affiliated entities in certain jurisdictions, and the term "offices" includes offices of those affiliated entities. Our external privacy statement is available at: <https://www.clearygottlieb.com/footer/privacy-statement>

EXHIBIT 6

Genesis Crypto Creditors Ad Hoc Group's Second Requests for Production of Documents to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.

and

Genesis Crypto Creditors Ad Hoc Group's Interrogatories to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.

MCDERMOTT WILL & EMERY LLP

Darren Azman
Joseph B. Evans
Lucas Barrett
One Vanderbilt Avenue
New York, New York 10017-3852
Telephone: (212) 547-5400
Facsimile: (212) 547-5444

MCDERMOTT WILL & EMERY LLP

Gregg Steinman (*pro hac vice*)
333 SE 2nd Avenue, Suite 4500
Miami, Florida 33131-2184
Telephone: (305) 329-4473
Facsimile: (305) 503-8805

*Counsel to the Genesis Crypto Creditors
Ad Hoc Group*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC., *et al.*,¹

)
) Chapter 11
)

) Case No. 23-10063 (SHL)
)

) (Jointly Administered)
)

**GENESIS CRYPTO CREDITORS AD HOC GROUP'S SECOND REQUESTS FOR
PRODUCTION OF DOCUMENTS TO GENESIS GLOBAL HOLDCO, LLC, GENESIS
GLOBAL CAPITAL, LLC, AND GENESIS ASIA PACIFIC PTE. LTD.**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure (the “Federal Rules”), made applicable to this proceeding by Rules 7026, 7034, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and pursuant to the Court’s *Order Authorizing Debtors’ Motion to Approve (I) the Adequacy of Information in the*

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s tax identification number (as applicable) are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); and Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices and Notice Procedures in Connection Therewith, and (IV) Certain Dates with Respect Thereto [ECF No. 1027], the Genesis Crypto Creditors Ad Hoc Group (the “Crypto Creditors Group”), by and through their counsel, McDermott Will & Emery LLP (“McDermott”), hereby requests that Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte Ltd. (the “Debtors”) (as defined below), produce the communications, documents, and electronic information identified below (the “Requests”) in its possession, custody, or control to the offices of McDermott Will & Emery LLP, One Vanderbilt Avenue, New York, NY 10017, on or before January 22, 2024 at 5:00 p.m. Eastern Time, or such other time to which the Crypto Creditors Group agrees.

PLEASE TAKE FURTHER NOTICE that the Crypto Creditors Group reserves its rights under the Bankruptcy Code and any applicable law regarding the subject matter hereof and to amend, supplement, and/or modify the Requests in accordance with the Bankruptcy Code, the Bankruptcy Rules, and other applicable law.

DEFINITIONS

These Requests incorporate by reference the definitions and rules of construction set forth in Local Civil Rule 26.3 of the Southern District of New York and Rules 34 and 45 of the Federal Rules, as incorporated by the Bankruptcy Rules, as well as any other applicable laws or rules. Unless otherwise defined herein, all words and phrases used herein shall first be defined according to Article I of the *Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 989] and the *Plan Supplement for the Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 1117], or thereafter be accorded their usual meaning and shall be interpreted in their common, ordinary sense. Notwithstanding any definition set forth below, each word, term, or phrase used in these

Requests is intended to have the broadest meaning permitted under the Federal Rules. The following definitions of terms apply to these Requests:

1. Any references to a corporation, partnership, proprietorship, association, organization, or any other business or legal entity (including any of the Debtors) shall be deemed to include the corporation's, partnership's, proprietorship's, association's, organization's, or other business or legal entities' current or former agents, accountants, advisors, employees, attorneys, officers, directors, direct or indirect shareholders, members, representatives, affiliates, subsidiaries, predecessors, successors, assigns, or any other person acting or purporting to act (or who acted or purported to act) on behalf of the corporation, partnership, proprietorship, association, organization, or other business or legal entity.

2. The use of any singular noun shall be construed to include the plural, and vice versa, and a verb in any tense shall be construed as the use of the verb in all other tenses.

3. The terms "all," "any," and "each" shall each be construed as encompassing any and all.

4. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

5. "3AC" means Three Arrows Capital, Ltd., including, as applicable, each of its predecessors, successors, subsidiaries, partners, principals, officers, directors, attorneys, managers, professionals, and other advisors, agents, employees, representatives, and persons acting or purporting to act on their behalf.

6. "3AC MLAs" means the loans that Debtors extended to 3AC between January 2019 and the date of 3AC's default in June 2022 pursuant to a Master Loan Agreement, dated January

10, 2019, and a Master Loan Agreement, dated January 24, 2020, as defined in the *Amended Disclosure Statement with Respect to the Amended Joint Plan of Genesis Global Holdco, LLC et al.*, Under Chapter 11 of the Bankruptcy Code [ECF No. 980] and any other loan Debtors extended to 3AC.

7. “Communication” means the transmittal of information (in the form of facts, ideas, inquiries, or otherwise). For the avoidance of doubt, this may encompass any oral, written, or electronic transmission of information, including, without limitation, meetings, discussions, conversations, telephone calls, e-mail messages, text messages, chats, iMessages, Bloomberg, Telegram, WhatsApp, Groupme, WeChat, Signal, Dust, Slack, Proton, memoranda, letters, analyst reports, telecopies, telefaxes, telexes, conferences, seminars, messages, notes, videotapes, photographs, microfilm, microfiche, magnetic disks, or other media of any kind. Requests for “Communication” include pictures or snapshots of any “Communication.”

8. “Concerning” means relating to, referring to, describing, evidencing or constituting.

9. “Cryptocurrency” or “Crypto” means all digital assets that are traded on a blockchain, broadly defined to include all types of digital assets, including virtual currency, tokens, ERC-20 compliant tokens, security tokens, utility tokens, stablecoins, and any other digital assets. This includes, but is not limited to, Bitcoin, Bitcoin Cash, Ethereum (ETH), USD Coin, Tether (USDT), Dai, IDOL, XRP, Cardano, Polkadot, Binance Coin, Litecoin, Chainlink, Stellar, Dogecoin, Aave, Uniswap, Wrapped Bitcoin, Bitcoin SV, EOS, Monero, Maker, Cosmos, TRON, NEM, Synthetix, Tezos, THETA, Compound, VeChain, Neo SushiSwap, Huobi Token, UMA, Elrond, IOTA, Solana, and any other digital asset.

10. “Crypto Creditors Group” means the Genesis Crypto Creditors Ad Hoc Group as identified in the unredacted *Second Amended Verified Statement Pursuant to Bankruptcy Rule 2019 of the Genesis Crypto Creditors Ad Hoc Group* [ECF No. 1079]

11. “DCG Loans” means any loans between Digital Currency Group, Inc. and Genesis.

12. “Debtors”, “Genesis”, “You”, or “Your” means Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd., including, as applicable, each of their predecessors, successors, subsidiaries, partners, principals, officers, directors, attorneys, managers, professionals, and other advisors, agents, employees, representatives, and persons acting or purporting to act on their behalf. For the avoidance of doubt, “Debtors” includes the “Wind-Down Debtors” as defined in the Plan.

13. “Documents” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.

14. “Estate” means, as to each Debtors, the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

15. “Grayscale Bitcoin ETF” means the exchange-traded fund commonly known as “GBTC” (<https://etfs.grayscale.com/gbtc>).

16. “Include” and “Including” means “include without limitation” and “including without limitation,” respectively, so that these terms are as inclusive as possible.

17. “Person” means any natural person or any legal entity, including, without limitation, any business or governmental entity or association.

18. “Petition Date” means January 19, 2023.

19. “Plan” means the *Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 989], filed on November 28, 2023.

20. “Plan Supplement” means the Debtors’ *Plan Supplement for the Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 1117], filed on December 29, 2023.

21. “Pledge Agreements” means the exchanges of collateral in connection with the 3AC Loans that were governed by a Pledge Agreement, dated May 28, 2020, a Pledge Agreement, dated November 16, 2021, and a Pledge Agreement, dated January 27, 2022, as defined in the *Amended Disclosure Statement with Respect to the Amended Joint Plan of Genesis Global Holdco, LLC et al., Under Chapter 11 of the Bankruptcy Code* [ECF No. 980].

22. “Released Genesis Personnel” means the Released Genesis Personnel as defined and identified in the Plan Supplement, Exhibit F, Section I.

23. “Released Party” means the Released Parties as defined and identified in the Plan, Article I(A)(180).

24. “Releases” means Article VIII, Section D: *Releases by the Debtors* of the Plan.

25. “Special Committee” means that certain Special Committee of the Board of Directors of GGH, established on November 18, 2022, comprised of Paul Aronzon and Thomas Conheeney, as defined in the Plan, Article I(A)(195).

26. “UCC” or “Committee” means the official committee of unsecured creditors of the Debtors appointed in the Chapter 11 Cases by the U.S. Trustee on February 3, 2023, as described in further detail in the *Notice of Appointment of Official Committee of Unsecured Creditors* [ECF No. 53].

INSTRUCTIONS

The following instructions apply to these Requests in addition to the instructions and obligations set forth in Rules 26 and 34 of the Federal Rules:

1. The preceding definitions apply to these Instructions and each of the succeeding Requests.

2. All terms defined above shall have the meanings set forth therein, whether capitalized in the Requests or not.

3. The use of any definition for the purposes of Requests shall not be deemed to constitute an agreement or acknowledgement on the part of the Crypto Creditors Group that such definition is accurate, meaningful, or appropriate for any other purpose in the Chapter 11 Cases or any other proceeding.

4. Debtors are required to produce all responsive documents in Debtors' possession, custody, or control, wherever located, including without limitation those in the custody of Debtors' employees, agents, representatives, consultants, attorneys, auditors, accountants, consultants, or any other person(s) now or heretofore under the control of the foregoing or acting or purporting to act on its behalf.

5. These Requests are continuing requests pursuant to the Bankruptcy Rules. Debtors must supplement any production of documents that are received, discovered, or created after any of Debtors' responses to the Requests, or that are otherwise within Debtors' possession, custody, or control, wherever located, including without limitation those in the custody of Debtors' representatives, agents, professionals, affiliates, or anyone acting on Debtors' behalf.

6. If Debtors object to any part of any Request, Debtors must produce all documents that are responsive to the portions of the Request to which Debtors do not object. Debtors also must state the nature of, and grounds for, the objection.

7. If Debtors cannot comply with any Request in full, Debtors must comply to the fullest extent possible, and Debtors must provide an explanation as to why full compliance is not possible.

8. Where Debtors assert a claim of privilege in objecting to a Request and withhold a responsive document on this basis, Debtors must provide a privilege log setting forth: (a) the nature of the privilege being claimed, (b) the type of document being withheld, (c) the general subject matter of the document, (d) the date of the document, and (e) such other information sufficient to identify the document, including, where appropriate, the author of the document, the title or subject line of the document, the addressee of the document, and, where not apparent, the relationship of the author and the addressee to each other.

9. If a document contains both privileged and non-privileged material, Debtors must disclose the non-privileged material to the fullest extent possible without thereby disclosing the privileged material. If a party asserts a privilege to part of the material contained in a document, the party asserting the privilege must clearly indicate the portions as to which it claims the privilege. When a document has been redacted or altered in any fashion, Debtors must identify as to each document the reason for the redaction or alteration, the date of the redaction or alteration, and the person performing the redaction or alteration. Any redaction must be clearly visible on the redacted documents.

10. All documents produced in electronic format shall be in their native format and shall be OCR (Optical Character Recognition) capable and shall be produced with Relativity compatible load files.

11. Additional special processing of certain electronically stored information shall be as follows: Microsoft Excel spreadsheet fields shall not be converted to TIFF files and shall be

produced in native format. A placeholder TIFF image shall be created, Bates numbered, and the produced Excel file shall be renamed to match the Bates number on its corresponding placeholder page. The exception shall be for redacted spreadsheets which shall be produced in TIFF format. Images for the redacted spreadsheets shall display the content in the same manner as if it were printed. The extractable metadata and text shall be provided for native files, and OCR will be provided for the un-redacted portions of the documents.

12. If any document called for by these Requests has been destroyed or discarded, Debtors must identify that document in writing by providing the following information: (a) any sender/author and any addressee; (b) any indicated or blind copies; (c) the document's date, subject matter, number of pages, and attachments or appendices; (d) all persons to whom the document was distributed, shown, or explained; (e) its date of destruction or discard, manner of destruction or discard, and reason for destruction or discard; (f) the persons who authorized and carried out such destruction or discard; and (g) whether any copies of the document presently exist and, if so, the name of the custodian of each copy.

13. Any copy of a document that varies in any way whatsoever from the original or from any other copy of the document, whether by reason or any handwritten mark or other notation or any omission, is a separate document and must be produced, whether or not the original of such a document is within Debtors' possession, custody, or control. A request for any document includes a request for all drafts thereof, and all revisions and modifications thereto, including any red-lined versions or document comparisons, in addition to the document itself. Each document is to be produced in its entirety, without abbreviation or expurgation.

14. In producing documents, all documents that are physically attached to each other, or segregated or separated from other documents, when originally located, should be produced as is. If no document exists that is responsive to a particular request, Debtors' must state so in writing.

DOCUMENT REQUESTS²

1. All Documents and Communications Concerning due diligence performed on the 3AC MLAs, including all Documents received from 3AC, notes Concerning diligence calls, committee minutes, and reports.

2. All Documents and Communications Concerning due diligence performed on the Pledge Agreements, including all notes Concerning diligence calls, committee minutes, and reports.

3. All Documents and Communications Concerning due diligence performed on or analysis of any decision to purchase, sell, pledge, liquidate, not liquidate, or hold the DCG Loans, including all notes Concerning diligence calls, committee minutes, and reports.

4. All Documents and Communications Concerning due diligence performed on or analysis of any decision to purchase, sell, pledge, liquidate, not liquidate, or hold the Grayscale Bitcoin ETF, including all notes Concerning diligence calls committee minutes, and reports.

5. Documents and Communications sufficient to show any deleted documents, communications, or records, including deleted Telegram chats.

6. All Documents and Communications Concerning investigations of any Released Party, any Released Genesis Personnel, and any Special Committee member conducted by the Estate, the UCC, or any other Person.

² Per the definition of "Documents," each of these document requests seek information stored on personal mobile devices, messaging applications, and other modes of communication.

7. All Documents sufficient to show all payments, transfers, or compensation of any kind in fiat or crypto received by each of the Released Parties and Released Genesis Personnel and remitted by the Debtors in the two years prior to the Petition Date.

8. All copies of any demand letters, draft complaints, claims, complaints, or Documents and Communications Concerning disputes Concerning any of the Released Parties and any of the Released Genesis Personnel.

9. All copies of any subpoenas, cease-and-desist orders, and formal or informal requests for information from any federal or state regulatory or law enforcement agency which reference, mention, or otherwise Concern any of the Released Parties and any of the Released Genesis Personnel.

10. All copies of investigation interviews, deposition transcripts, sworn statements, or any other written or oral statements provided by any of the Released Parties and any of the Released Genesis Personnel in connection with any internal or external investigation that occurred during period of two years prior to the Petition Date to the present.

11. All Documents sufficient to assess the benefit the Estate will receive from providing the Releases.

12. All Documents sufficient to assess the anticipate value of the Estate's litigation claims against each of the Released Parties and each of the Released Genesis Personnel.

13. All copies of all expense reports, requests for reimbursement, personal expenses, entertainment expenses, business development expenses, or any other requests for payment or reimbursement made by the Released Parties and the Released Genesis Personnel and submitted to the Debtors.

Dated: New York, New York
January 17, 2024

MCDERMOTT WILL & EMERY LLP

/s/ Joseph B. Evans

Darren Azman

Joseph B. Evans

Lucas Barrett

One Vanderbilt Avenue

New York, NY 10017-3852

Telephone: (212) 547-5400

Facsimile: (212) 547-5444

E-mail: dazman@mwe.com

E-mail: jbevans@mwe.com

E-mail: lbarrett@mwe.com

- and -

Gregg Steinman (*pro hac vice* pending)

333 SE 2nd Avenue, Suite 4500

Miami, FL 33131-2184

Telephone: (305) 329-4473

Facsimile: (305) 503-8805

E-mail: gsteinman@mwe.com

*Counsel to the Genesis Crypto
Creditors Ad Hoc Group*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th day of January 2024, he caused a true and correct copy of the foregoing *Genesis Crypto Creditors Ad Hoc Group's Second Requests for Production of Documents to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte Ltd.* to be served via electronic mail to the following:

Thomas S. Kessler
Jack Massey
Sean O'Neal
Jane VanLare
Hoo Ri Kim
Michael Weinberg
Richard C. Minott
Christian Ribeiro
Luke A. Barefoot
Andrew Weaver
Rishi Zutshi
Sabrina A. Bremer
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006

tkessler@cgsh.com
jamassey@cgsh.com
soneal@cgsh.com
jvanlare@cgsh.com
hokim@cgsh.com
mdweinberg@cgsh.com
rminott@cgsh.com
cribeiro@cgsh.com
lbarefoot@cgsh.com
aweaver@cgsh.com
rzutshi@cgsh.com
sabremer@cgsh.com

/s/ Matthew G. Gibson

Matthew G. Gibson

MCDERMOTT WILL & EMERY LLP

Darren Azman
Joseph B. Evans
Lucas Barrett
One Vanderbilt Avenue
New York, New York 10017-3852
Telephone: (212) 547-5400
Facsimile: (212) 547-5444

MCDERMOTT WILL & EMERY LLP

Gregg Steinman (*pro hac vice*)
333 SE 2nd Avenue, Suite 4500
Miami, Florida 33131-2184
Telephone: (305) 329-4473
Facsimile: (305) 503-8805

*Counsel to the Genesis Crypto Creditors
Ad Hoc Group*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

_____)	
In re:)	Chapter 11
)	
Genesis Global Holdco, LLC., <i>et al.</i> , ¹)	Case No. 23-10063 (SHL)
)	
)	(Jointly Administered)
_____)	

**GENESIS CRYPTO CREDITORS AD HOC GROUP'S INTERROGATORIES TO
GENESIS GLOBAL HOLDCO, LLC, GENESIS GLOBAL CAPITAL, LLC, AND
GENESIS ASIA PACIFIC PTE. LTD.**

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable to this proceeding by Rules 7026, 7033, and 9014 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and pursuant to the Court's *Order Authorizing Debtors' Motion to Approve (I) the Adequacy of Information in the*

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's tax identification number (as applicable) are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); and Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices and Notice Procedures in Connection Therewith, and (IV) Certain Dates with Respect Thereto [ECF No. 1027], the Genesis Crypto Creditors Ad Hoc Group (the “Crypto Creditors Group”), by and through their counsel, McDermott Will & Emery LLP (“McDermott”), hereby requests that Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd. (the “Debtors”) (as defined below), respond to the following interrogatories below (collectively, the “Interrogatories”) fully, separately, in writing, and under oath. Responses to these Interrogatories must be served on counsel for the Crypto Creditors Group, McDermott Will & Emery LLP, One Vanderbilt Avenue, New York, NY 10017, on or before January 22, 2024, at 5:00 p.m. Eastern Time, or such other time to which the Crypto Creditors Group agrees.

PLEASE TAKE FURTHER NOTICE that the Crypto Creditors Group reserves its rights under the Bankruptcy Code and any applicable law regarding the subject matter hereof and to amend, supplement, and/or modify the Interrogatories in accordance with the Bankruptcy Code, the Bankruptcy Rules, and other applicable law.

DEFINITIONS

These Interrogatories incorporate by reference the definitions and rules of construction set forth in Local Civil Rule 26.3 of the Southern District of New York and Rule 33 of the Federal Rules, as incorporated by the Bankruptcy Rules, as well as any other applicable laws or rules. Unless otherwise defined herein, all words and phrases used herein shall first be defined according to Article I of the *Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 989] and the *Plan Supplement for the Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 1117], or thereafter be accorded their usual meaning and shall be interpreted in their common, ordinary sense. Notwithstanding any definition set forth below, each word, term, or phrase used in these

Interrogatories is intended to have the broadest meaning permitted under the Federal Rules. The following definitions of terms apply to these Interrogatories:

1. Any references to a corporation, partnership, proprietorship, association, organization, or any other business or legal entity (including any of the Debtors) shall be deemed to include the corporation's, partnership's, proprietorship's, association's, organization's, or other business or legal entities' current or former agents, accountants, advisors, employees, attorneys, officers, directors, direct or indirect shareholders, members, representatives, affiliates, subsidiaries, predecessors, successors, assigns, or any other person acting or purporting to act (or who acted or purported to act) on behalf of the corporation, partnership, proprietorship, association, organization, or other business or legal entity.

2. The use of any singular noun shall be construed to include the plural, and vice versa, and a verb in any tense shall be construed as the use of the verb in all other tenses.

3. The terms "all," "any," and "each" shall each be construed as encompassing any and all.

4. The connectives "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

5. "3AC" means Three Arrows Capital, Ltd., including, as applicable, each of its predecessors, successors, subsidiaries, partners, principals, officers, directors, attorneys, managers, professionals, and other advisors, agents, employees, representatives, and persons acting or purporting to act on their behalf.

6. "3AC MLAs" means the loans that Debtors extended to 3AC between January 2019 and the date of 3AC's default in June 2022 pursuant to a Master Loan Agreement, dated January

10, 2019, and a Master Loan Agreement, dated January 24, 2020, as defined in the *Amended Disclosure Statement with Respect to the Amended Joint Plan Of Genesis Global Holdco, LLC et al.*, Under Chapter 11 of the Bankruptcy Code [ECF No. 980] and any other loan Debtors extended to 3AC.

7. “Concerning” means relating to, referring to, describing, evidencing or constituting.

8. “Cryptocurrency” or “Crypto” means all digital assets that are traded on a blockchain, broadly defined to include all types of digital assets, including virtual currency, tokens, ERC-20 compliant tokens, security tokens, utility tokens, stablecoins, and any other digital assets. This includes, but is not limited to, Bitcoin, Bitcoin Cash, Ethereum (ETH), USD Coin, Tether (USDt), Dai, IDOL, XRP, Cardano, Polkadot, Binance Coin, Litecoin, Chainlink, Stellar, Dogecoin, Aave, Uniswap, Wrapped Bitcoin, Bitcoin SV, EOS, Monero, Maker, Cosmos, TRON, NEM, Synthetix, Tezos, THETA, Compound, VeChain, Neo SushiSwap, Huobi Token, UMA, Elrond, IOTA, Solana, and any other digital asset.

9. “Crypto Creditors Group” means the Genesis Crypto Creditors Ad Hoc Group as identified in the unredacted *Second Amended Verified Statement Pursuant to Bankruptcy Rule 2019 of the Genesis Crypto Creditors Ad Hoc Group* [ECF No. 1079]

10. “DCG Loans” means any loans between Digital Currency Group, Inc. and Genesis.

11. “Debtors”, “Genesis”, “You”, or “Your” means Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd., including, as applicable, each of their predecessors, successors, subsidiaries, partners, principals, officers, directors, attorneys, managers, professionals, and other advisors, agents, employees, representatives, and persons

acting or purporting to act on their behalf. For the avoidance of doubt, “Debtors” includes the “Wind-Down Debtors” as defined in the Plan.

12. “Documents” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” in Fed. R. Civ. P. 34(a)(1)(A). A draft or non-identical copy is a separate document within the meaning of this term.

13. “Estate” means, as to each Debtors, the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

14. “Grayscale Bitcoin ETF” means the exchange-traded fund commonly known as “GBTC” (<https://etfs.grayscale.com/gbtc>).

15. “Identify” means, when used in reference to:

- a. A natural person, his or her:
 - i. Full name;
 - ii. Present or last-known home and business address;
 - iii. Present or last-known telephone number; and
 - iv. Present or last-known position, business affiliation, and job description.
- b. A company, corporation, association, partnership, or any legal entity other than a natural person, its:
 - i. Full name and type of organization or entity;
 - ii. Address of principal place of business; and
 - iii. Jurisdiction and date of incorporation or organization, if known.
- c. An object or process, its:
 - i. Name; and
 - ii. A sufficiently detailed description.

16. “Include” and “Including” means “include without limitation” and “including without limitation,” respectively, so that these terms are as inclusive as possible.

17. “Person” means any natural person or any legal entity, including, without limitation, any business or governmental entity or association.

18. “Petition Date” means January 19, 2023.

19. “Plan” means the *Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 989], filed on November 28, 2023.

20. “Plan Supplement” means the Debtors’ *Plan Supplement for the Debtors’ Amended Joint Chapter 11 Plan* [ECF No. 1117], filed on December 29, 2023.

21. “Pledge Agreements” means the exchanges of collateral in connection with the 3AC Loans that were governed by a Pledge Agreement, dated May 28, 2020, a Pledge Agreement, dated November 16, 2021, and a Pledge Agreement, dated January 27, 2022, as defined in the *Amended Disclosure Statement with Respect to the Amended Joint Plan of Genesis Global Holdco, LLC et al., Under Chapter 11 of the Bankruptcy Code* [ECF No. 980].

22. “Released Genesis Personnel” means the Released Genesis Personnel as defined and identified in the Plan Supplement, Exhibit F, Section I.

23. “Released Party” means the Released Parties as defined in the Plan, Article I(A)(180).

24. “Releases” means Article VIII, Section D: *Releases by the Debtors* of the Plan.

25. “Special Committee” means that certain Special Committee of the Board of Directors of GGH, established on November 18, 2022, comprised of Paul Aronzon and Thomas Conheeney, as defined in the Plan, Article I(A)(195).

INSTRUCTIONS

The following instructions apply to these Interrogatories in addition to the instructions and obligations set forth in Rules 26 and 33 of the Federal Rules:

1. The preceding definitions apply to these Instructions and each of the succeeding Interrogatories.

2. All terms defined above shall have the meanings set forth therein, whether capitalized in the Interrogatories or not.

3. The use of any definition for the purposes of the Interrogatories shall not be deemed to constitute an agreement or acknowledgement on the part of the Crypto Creditors Group that such definition is accurate, meaningful, or appropriate for any other purpose in the Chapter 11 Cases or any other proceeding.

4. As used in the Interrogatories, and as necessary to bring within the scope of an Interrogatory any information that might otherwise be construed to be outside its scope: (a) the connectors “and” and “or” shall be construed both conjunctively and disjunctively; (b) the terms “all,” “any,” and “each” shall be construed as “any and all”; (c) the singular of any word shall include the plural and vice versa; (d) the use of any verb in any tense shall be construed as the use of that verb in all other tenses; (e) the use of the masculine form of a noun or pronoun shall include the feminine form, and vice versa; and (f) the use of the conjunctive or disjunctive, respectively, shall be construed as necessary to be inclusive rather than exclusive.

5. The specificity of any Interrogatory shall not be construed or understood as limiting the generality or breadth of any other Interrogatory.

6. Each Interrogatory is to be answered separately and in order, and shall be construed independently and not by reference to any other Interrogatory.

7. For the convenience of the Court and the parties, each Interrogatory should be quoted in full immediately preceding the response.

8. You are required to identify all non-privileged, responsive information in Debtors' possession, custody, or control, wherever located, including, without limitation information in the custody of Debtors' employees, agents, representatives, consultants, attorneys, auditors, accountants, consultants, or any other person(s) now or heretofore under the control of the foregoing or acting or purporting to act on its behalf.

9. In accordance with the Federal Rules, Debtors must answer each Interrogatory fully and completely in writing under oath, to the extent that it is not objected to, after exercising due diligence to make an inquiry and secure the information necessary to do so.

10. These Interrogatories are continuing in nature and must be supplemented as necessary in accordance with Rule 26(e) of the Federal Rules. Debtors must supplement any response with information received after responding to any of the Interrogatories.

11. If Debtors object to any Interrogatory, in full or in part, specify the portion of the Interrogatory to which Debtors object, state in full the basis for Debtors' objection, and answer so much of the Interrogatory as is not objectionable. The grounds for objecting to an Interrogatory, in full or in part, must be stated with specificity.

12. If Debtors cannot answer an Interrogatory fully and completely after exercising due diligence, Debtors must provide a written response so stating, specifying the portion of the Interrogatory that Debtors are unable to answer fully and completely, together with the facts on which Debtors rely to support that contention, and answer so much of the Interrogatory as is possible.

13. When responding to any Interrogatory, identify all Documents that Debtors reviewed or relied upon in answering the Interrogatory.

14. The instructions relating to the assertion of claims of privilege set forth in Rule 26(b)(5) of the Federal Rules are hereby incorporated by reference. Information called for by the Interrogatories that is withheld based on a claim of privilege, in full or in part, shall be described in a manner sufficient to allow the Crypto Creditors Group and the Court to assess the claim of privilege.

15. The Crypto Creditors Group reserves the right to amend the Interrogatories.

INTERROGATORIES

INTERROGATORY NO. 1: Identify each person and entity that is a Released Party.

INTERROGATORY NO. 2: Provide a description of the investigation(s) conducted Concerning each Released Party, including the identities of the Person(s) that conducted the investigation, the number of Documents reviewed, number of interviews conducted, the causes of action investigated, the findings of the investigation, and identify any investigative reports or memorandum containing the findings of the investigation.

INTERROGATORY NO. 3: Provide a description of the investigation(s) conducted Concerning each Released Genesis Personnel, including the identities of the Person(s) that conducted the investigation, the number of Documents reviewed, number of interviews conducted, the causes of action investigated, the findings of the investigation, and identify any investigative reports or memorandum containing the findings of the investigation.

INTERROGATORY NO. 4: Provide a description of the investigation(s) conducted Concerning each Special Committee member, including the identities of the Person(s) that conducted the investigation, the number of Documents reviewed, number of interviews conducted, the causes of

action investigated, the findings of the investigation, and identify any investigative reports or memorandum containing the findings of the investigation.

INTERROGATORY NO. 4: For each Released Party, Released Genesis Personnel, and Special Committee member, Identify the reasons for the Releases, including the benefit the Estate will receive from providing the Releases.

INTERROGATORY NO. 5: Identify the anticipated value of the Estate's litigation claims against each of the Released Parties and each of the Released Genesis Personnel.

INTERROGATORY NO. 6: Identify all payments, transfers, or compensation of any kind in fiat or crypto received by each Released Party and each Released Genesis Personnel in the two years prior to the Petition Date.

INTERROGATORY NO. 7: Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in the 3AC MLAs.

INTERROGATORY NO. 8: Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in the Pledge Agreements.

INTERROGATORY NO. 9: Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in the DCG Loans.

INTERROGATORY NO. 10: Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in any decision to purchase, sell, pledge, liquidate, not liquidate, or hold the Grayscale Bitcoin ETF.

Dated: New York, New York
January 17, 2024

MCDERMOTT WILL & EMERY LLP

/s/ Joseph B. Evans

Darren Azman

Joseph B. Evans

Lucas Barrett

One Vanderbilt Avenue

New York, NY 10017-3852

Telephone: (212) 547-5400

Facsimile: (212) 547-5444

E-mail: dazman@mwe.com

E-mail: jbevans@mwe.com

E-mail: lbarrett@mwe.com

- and -

Gregg Steinman (*pro hac vice* pending)

333 SE 2nd Avenue, Suite 4500

Miami, FL 33131-2184

Telephone: (305) 329-4473

Facsimile: (305) 503-8805

E-mail: gsteinman@mwe.com

*Counsel to the Genesis Crypto
Creditors Ad Hoc Group*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 17th of January 2024, he caused a true and correct copy of the foregoing *Genesis Crypto Creditors Ad Hoc Group's Interrogatories to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte Ltd.* to be served via electronic mail to the following:

Thomas S. Kessler
Jack Massey
Sean O'Neal
Jane VanLare
Hoo Ri Kim
Michael Weinberg
Richard C. Minott
Christian Ribeiro
Luke A. Barefoot
Andrew Weaver
Rishi Zutshi
Sabrina A. Bremer
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, NY 10006

tkessler@cgsh.com
jamasey@cgsh.com
soneal@cgsh.com
jvanlare@cgsh.com
hokim@cgsh.com
mdweinberg@cgsh.com
rminott@cgsh.com
cribeiro@cgsh.com
lbarefoot@cgsh.com
aweaver@cgsh.com
rzutshi@cgsh.com
sabremer@cgsh.com

/s/ Matthew G. Gibson

Matthew G. Gibson

EXHIBIT 7

Debtors' Responses and Objections to Genesis Crypto Creditors Ad Hoc Group's
Second Requests for Production of Documents

and

Debtors' Responses and Objections to Genesis Crypto Creditors Ad Hoc Group's
First Set of Interrogatories to the Debtors

CLEARY GOTTlieb STEEN & HAMILTON LLP

Sean A. O’Neal

Luke A. Barefoot

Jane VanLare

Thomas S. Kessler

One Liberty Plaza

New York, New York 10006

Telephone: 212-225-2000

Facsimile: 212-225-3999

*Counsel to the Debtors
and Debtors-in-Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No.: 23-10063 (SHL)

Jointly Administered

**DEBTORS’ RESPONSES AND OBJECTIONS TO GENESIS CRYPTO CREDITORS
AD HOC GROUP’S SECOND REQUESTS FOR PRODUCTION OF DOCUMENTS**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, as made applicable and modified by Rules 7034 of the Federal Rules of Bankruptcy Procedure, and the Local Rules of this Court, Genesis Global Holdco (“Holdco”) and its affiliated debtors and debtors-in-possession (collectively, the “Debtors”), by their undersigned counsel, hereby respond and object (the “Responses and Objections”) to the *Genesis Crypto Creditors Ad Hoc Group’s Second Requests For Production Of Documents To Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.*, dated January 17, 2024 (the “Requests”), issued

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor’s tax identification number (as applicable), are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

by the Genesis Crypto Creditors Ad Hoc Group (the “Crypto Creditors Group”) in the above captioned cases (the “Chapter 11 Cases”) concerning the *Debtors’ Amended Joint Chapter 11 Plan*, ECF No. 989 (as may be amended or modified from time to time, the “Plan”).

Counsel for the Debtors are available to meet and confer with respect to their Responses and Objections to the Requests, should counsel for the Crypto Creditors Group wish to do so.

GENERAL OBJECTIONS

The Debtors assert the following general objections (“General Objections”) to the Requests. The General Objections apply to each Request and are incorporated by reference into each response made herein, in addition to any specific responses and objections (the “Response”) included herein. The assertion of the same, similar or additional objections, or the provision of partial answers in any specific response or objection, does not waive any of the General Objections. The Debtors’ failure to object to a specific Request on a particular ground shall not be construed as a waiver of their right to object on any ground.

The Responses are made to the best of the Debtors’ knowledge at the present time, and the Debtors explicitly reserve the right to revise, amend, correct, supplement, or clarify their responses, objections, and productions, without in any way obligating them to do so.

1. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they are not relevant generally to the Plan and specifically to any objection by the Crypto Creditors Group to the confirmation of the Plan (“Plan Confirmation”), and are not proportional to the needs of the case, or purport to impose any obligation on the Debtors beyond that required or permitted by the Federal Rules, the Bankruptcy Rules, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

2. The Debtors object to the Requests on the grounds that they are untimely under the *Order Authorizing Debtors' Motion to Approve (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices, and Notice Procedures in Connection Therewith, and (IV) Certain Dates with Respect Thereto*, ECF No. 1027 (the "Disclosure Statement Order"), which established the last day to serve discovery requests as December 27, 2023.

3. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they are overly broad, unduly burdensome, and unreasonably duplicative or cumulative.

4. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they are unduly burdensome because they purport to require production of documents and communications and information whose likely benefit would be outweighed by the burden and expense of production of such documents in light of the limited resources and administrative capacities of the Debtors.

5. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they seek documents and communications or information that are already in the Crypto Creditors Group or its counsel's possession, custody, or control, including as provided to the Crypto Creditors Group and its counsel by the Debtors' advisors; that are publicly available; or that are available to the Crypto Creditors Group and its counsel from sources other than the Debtors for which responding to the requests would be more convenient, less expensive, or less burdensome than responding would be for the Debtors.

6. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they are vague, ambiguous or require the Debtors to speculate as to the information the Crypto Creditors Group seeks.

7. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they purport to require the production of “all” documents and communications under circumstances in which a subset of all documents would be sufficient to show the pertinent information, on the grounds that such requests for production of “all” documents are overly broad, unduly burdensome and unnecessarily duplicative and cumulative.

8. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they purport to require the Debtors to collect, review or produce documents or communications or provide information, including but not limited to electronically stored information, that is outside of the possession, custody or control of the Debtors. The Debtors will respond to these Requests only with respect to documents and information within their possession, custody or control.

9. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they seek documents or communications or information protected by the attorney-client privilege, the work product doctrine, common interest privilege, or any other applicable privilege or protection from discovery (“Privileged Information”). Documents and communications or information covered by such privileges are not subject to disclosure and, therefore, the Requests will not be construed to seek such documents or information (“Non-Privileged Information”). Any inadvertent disclosure of any information or document or communication protected by such privileges shall not be deemed or construed a waiver of any privilege, immunity, protection, or right of the Debtors, and the Debtors reserve their rights to

demand that the Crypto Creditors Group return to the Debtors any such documents and all copies thereof.

10. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they imply the existence of facts or circumstances that do not or did not exist and insofar as they state or assume legal conclusions. Nothing contained in any response herein, nor the production of any document and communication or information, shall be deemed to be an admission, concession or waiver by the Debtors as to any question of fact or law at issue in or pertaining to the Plan.

11. The Debtors object to the Requests, including the definitions and instructions contained therein, insofar as they purport to seek collection or review of documents and communications that are not reasonably accessible and which the Debtors cannot attempt to access without incurring significant burden and expense, including but not limited to data existing on media used for the purpose of system recovery, disaster recovery or information restoration, including system recovery backup tapes, continuity of operations systems and data or system mirrors or shadows, if such data are routinely purged, overwritten or otherwise made not reasonably accessible in accordance with an established routine system maintenance policy. Retrieval of any such material would not be proportional to the needs of the case in light of the accompanying cost and the Debtors' difficulty in retrieving and searching such information.

12. The Debtors object to the Requests to the extent they seek trade secrets or information unrelated to the Plan and Plan Confirmation that is (i) confidential, proprietary, or commercially or competitively sensitive to the Debtors and/or their affiliates, employees, clients, customers, or counterparties; (ii) subject to privacy laws, protective orders, nondisclosure agreements, or other confidentiality undertakings, including any protective order entered in the

Bankruptcy or the *Order Appointing Mediator*, ECF No. 279; or (iii) otherwise prohibited from disclosure by law.

13. The Debtors object to the Requests on the grounds that the lack of a relevant time period renders the Requests overly broad and unduly burdensome, and calls for the inclusion of documents that are not relevant to the subject matter of Plan Confirmation. Unless otherwise specified, the Debtors define the relevant period to be July 1, 2023 to January 4, 2024 for all Requests (the “Relevant Time Period”).

14. The Debtors object to the Requests, including the definitions and instructions contained therein, as overly broad, unduly burdensome and improperly demanding discovery that is not proportional to the needs of the case, insofar as they purport to require the Debtors to collect or review documents and communications from custodians who do not possess non-duplicative documents and communications reasonably calculated to lead to the discovery of admissible evidence or insofar as they would require the Debtors to collect or review documents and communications not captured by the application of reasonable search criteria. Where the Debtors agree to produce information, only responsive, Non-Privileged Information, if any, located through a reasonable and diligent search of the reasonably accessible files or of relevant custodians expected to be in the possession, custody or control of responsive and non-duplicative documents and communications, limited to the relevant period (“Reasonable Search”), will be produced.

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

1. The Debtors object to the Definitions to the extent they purport to extend beyond a reasonable scope and/or their natural meaning. The Debtors will interpret the Requests

reasonably and in good faith in accordance with common English usage as supplemented by their understanding of the common meaning of terms.

2. The Debtors object to the definition of “Debtors” and “Genesis” to the extent that it includes indirect subsidiaries and direct subsidiaries that are not debtors, including “each of their predecessors, successors, subsidiaries, partners, principals, officers, directors, attorneys, managers, professionals, and other advisors, agents, employees, representatives, and persons acting or purporting to act on their behalf” on the grounds that the definition is overbroad, unduly burdensome, and not proportional to the needs of the Chapter 11 Cases. The Debtors further object to the definition of “Debtors” and “Genesis” to the extent that it seeks the discovery of information that is not relevant to the Plan, seeks the discovery of information that is not under the Debtors’ custody or control, and seeks the discovery of information that could otherwise be protected from discovery. The Debtors further object to the definition of “Debtors” and “Genesis” to the extent that it seeks the discovery of internal Documents from the Debtors’ advisors or privileged Communications between the Debtors and their advisors. The Debtors will interpret the term “Debtors” and “Genesis” to mean Genesis Global Holdco, LLC and certain of its affiliates as defined in footnote 1.

3. The Debtors object to the definitions of “You” and “Your” to the extent that they include “each of their predecessors, successors, subsidiaries, partners, principals, officers, directors, attorneys, managers, professionals, and other advisors, agents, employees, representatives, and persons acting or purporting to act on their behalf” on the grounds that the definitions are overbroad, unduly burdensome, and not proportional to the needs of the Plan and Plan Confirmation. The Debtors further object to the definitions of “You” and “Your” to the extent that they seek the discovery of information that is not relevant to the Plan and Plan

Confirmation, seek the discovery of information that is not under the Debtors' custody or control, and seek the discovery of Privileged Information or information that could otherwise be protected from discovery.

4. The Debtors object to Instruction 4 on the grounds that it is overly broad and unduly burdensome. The Debtors further object to Instruction 3 to the extent it seeks Privileged Information.

5. The Debtors object to Instruction 5 on the grounds that it is overly broad, unduly burdensome, and purports to impose obligations beyond those required by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

6. The Debtors object to Instruction 8 to the extent it purports to require the Debtors to identify "the title or subject line of the document, the addressee of the document, and, where not apparent, the relationship of the author and the addressee to each other", on the grounds that such an obligation is overly broad, unduly burdensome, seeks the discovery of Privileged Information, and purports to impose obligations beyond those required by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

7. The Debtors object to Instruction 10 to the extent it purports to impose obligations beyond those required by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

8. The Debtors object to Instruction 11 to the extent it purports to impose obligations beyond those required by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy

Procedure, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

9. The Debtors object to Instruction 12 to the extent that it purports to require the Debtors to produce a log describing any document that “has been destroyed or discarded” on the grounds that such a purported obligation is overly broad, unduly burdensome, and purports to impose obligations beyond those required by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

10. Subject to, and without waiving, any objections, the Debtors specifically object and respond to each Request below.

SPECIFIC RESPONSES AND OBJECTIONS

Request No. 1:

All Documents and Communications Concerning due diligence performed on the 3AC MLAs, including all Documents received from 3AC, notes Concerning diligence calls, committee minutes, and reports.

Response to Request No. 1:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents and Communications” concerning a given subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it is not relevant to any objection by the Crypto Creditors Group to Plan Confirmation.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 2:

All Documents and Communications Concerning due diligence performed on the Pledge Agreements, including all notes Concerning diligence calls, committee minutes, and reports.

Response to Request No. 2:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents and Communications” concerning a given subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it is not relevant to the Plan or Plan Confirmation.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 3:

All Documents and Communications Concerning due diligence performed on or analysis of any decision to purchase, sell, pledge, liquidate, not liquidate, or hold the DCG Loans, including all notes Concerning diligence calls, committee minutes, and reports.

Response to Request No. 3:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents and Communications” concerning a given

subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it is not relevant to the Plan or Plan Confirmation.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 4:

All Documents and Communications Concerning due diligence performed on or analysis of any decision to purchase, sell, pledge, liquidate, not liquidate, or hold the Grayscale Bitcoin ETF, including all notes Concerning diligence calls committee minutes, and reports.

Response to Request No. 4:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents and Communications” concerning a given subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it is not relevant to the Plan or Plan Confirmation.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 5:

Documents and Communications sufficient to show any deleted documents, communications, or records, including deleted Telegram chats.

Response to Request No. 5:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it is not relevant to the Plan or Plan Confirmation.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 6:

All Documents and Communications Concerning investigations of any Released Party, any Released Genesis Personnel, and any Special Committee member conducted by the Estate, the UCC, or any other Person.

Response to Request No. 6:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents and Communications” concerning a given subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to

this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it seeks information already known by the Crypto Creditors Group and calls for publicly available information, including information in the *Amended Disclosure Statement with Respect to the Amended Joint Plan of Genesis Global Holdco, LLC et al., Under Chapter 11 of the Bankruptcy Code*, ECF No. 1031 (the “Disclosure Statement”).

For the foregoing reasons, the Debtors will not produce documents in response to this Request.

Request No. 7:

All Documents sufficient to show all payments, transfers, or compensation of any kind in fiat or crypto received by each of the Released Parties and Released Genesis Personnel and remitted by the Debtors in the two years prior to the Petition Date.

Response to Request No. 7:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents” concerning a given subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it seeks information already known by the Crypto Creditors Group and calls for publicly available information, including information in ECF Nos. 142, 143, 144, 145, 146, 147, and 450 (collectively, the “Debtors’ Schedules”).

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 8:

All copies of any demand letters, draft complaints, claims, complaints, or Documents and Communications Concerning disputes Concerning any of the Released Parties and any of the Released Genesis Personnel.

Response to Request No. 8:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents and Communications” concerning a given subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested.

For the foregoing reasons, the Debtors will not produce documents in response to this Request.

Request No. 9:

All copies of any subpoenas, cease-and-desist orders, and formal or informal requests for information from any federal or state regulatory or law enforcement agency which reference, mention, or otherwise Concern any of the Released Parties and any of the Released Genesis Personnel.

Response to Request No. 9:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents and Communications” concerning a given subject matter under circumstances in which a production of a subset of documents would be

sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent it calls for the production or disclosure of material provided to any state or federal regulatory or investigative body and to the extent that such material is protected by the work product, investigative or other privilege. The Debtors further object to the Request to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 10:

All copies of investigation interviews, deposition transcripts, sworn statements, or any other written or oral statements provided by any of the Released Parties and any of the Released Genesis Personnel in connection with any internal or external investigation that occurred during period of two years prior to the Petition Date to the present.

Response to Request No. 10:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all copies of investigation interviews, deposition transcripts, sworn statements, or any other written or oral statements” when a production of a subset of documents would be sufficient to show pertinent information. The Debtors further object to this Request to the extent it calls for the production or disclosure of material provided to any state or federal regulatory or investigative body and to the extent that such material is protected by the work product, investigative or other privilege. The Debtors further object to the Request to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 11:

All Documents sufficient to assess the benefit the Estate will receive from providing the Releases.

Response to Request No. 11:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents” concerning a given subject matter under circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it seeks information already known by the Crypto Creditors Group and calls for publicly available information, including information in the Disclosure Statement.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 12:

All Documents sufficient to assess the anticipate value of the Estate’s litigation claims against each of the Released Parties and each of the Released Genesis Personnel.

Response to Request No. 12:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all Documents” concerning a given subject matter under

circumstances in which a production of a subset of documents would be sufficient to show pertinent information and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested. The Debtors further object to this Request to the extent it seeks information already known by the Crypto Creditors Group and calls for publicly available information, including information in the Disclosure Statement.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Request No. 13:

All copies of all expense reports, requests for reimbursement, personal expenses, entertainment expenses, business development expenses, or any other requests for payment or reimbursement made by the Released Parties and the Released Genesis Personnel and submitted to the Debtors.

Response to Request No. 13:

The Debtors object to this Request as overbroad, unduly burdensome, and not proportional, insofar as it requests “all copies of all expense reports, requests for reimbursement, personal expenses, entertainment expenses, business development expenses, or any other requests for payment or reimbursement” when a production of a subset of documents would be sufficient to show pertinent information, and it is not limited to a specific time period. The Debtors further object to this Request to the extent that it seeks the production of Privileged Information, and to the extent that it is vague or ambiguous and therefore requires substantive judgment on the part of the Debtors as to what documents are requested.

Subject to the foregoing specific and General Objections, the Debtors are willing to meet and confer to determine whether a Reasonable Search can be conducted for documents and communications responsive to this Request.

Dated: January 30, 2024
New York, New York

/s/ Thomas S. Kessler

Sean A. O'Neal

Luke A. Barefoot

Jane VanLare

Thomas S. Kessler

CLEARY GOTTlieb STEEN & HAMILTON LLP

One Liberty Plaza

New York, New York 10006

Telephone: (212) 225-2000

Facsimile: (212) 225-3999

*Counsel for the Debtors
and Debtors-in-Possession*

CLEARY GOTTlieb STEEN & HAMILTON LLP

Sean A. O'Neal

Luke A. Barefoot

Jane VanLare

Thomas S. Kessler

Andrew Weaver

One Liberty Plaza

New York, New York 10006

Telephone: 212-225-2000

Facsimile: 212-225-3999

*Counsel to the Debtors
and Debtors-in-Possession*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

Genesis Global Holdco, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No.: 23-10063 (SHL)

Jointly Administered

**DEBTORS' RESPONSES AND OBJECTIONS TO GENESIS CRYPTO CREDITORS
AD HOC GROUP'S FIRST SET OF INTERROGATORIES TO THE DEBTORS**

Pursuant to Rules 26 and 33 of the Federal Rules of Civil Procedure, Rules 7026, 7033 and 9014 of the Federal Rules of Bankruptcy Procedure, and the Local Rules of this Court, Genesis Global Holdco ("Holdco") and its affiliated debtors and debtors-in-possession (collectively, the "Debtors"), by their undersigned counsel, hereby respond and object (the "Responses and Objections") to *Genesis Crypto Creditors Ad Hoc Group's Interrogatories to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.*, dated January 17,

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of each Debtor's tax identification number (as applicable), are: Genesis Global Holdco, LLC (8219); Genesis Global Capital, LLC (8564); Genesis Asia Pacific Pte. Ltd. (2164R). For the purpose of these Chapter 11 Cases, the service address for the Debtors is 175 Greenwich Street, Floor 38, New York, NY 10007.

2024 (the “Interrogatories”), issued by the Genesis Crypto Creditors Ad Hoc Group (the “Crypto Creditors Ad Hoc Group”) in the above captioned cases (the “Chapter 11 Cases”) concerning the *Debtors’ Amended Joint Chapter 11 Plan*, ECF No. 989 (as may be amended or modified from time to time, the “Plan”).

Counsel for the Debtors are available to meet and confer with respect to their Responses and Objections to the Interrogatories, should counsel for the Crypto Creditors Ad Hoc Group wish to do so.

GENERAL OBJECTIONS

The Debtors assert the following general objections (“General Objections”) to the Interrogatories. The General Objections apply to each Interrogatory and are incorporated by reference into each response made herein, in addition to any specific responses and objections (the “Response”) included herein. The assertion of the same, similar or additional objections, or the provision of partial answers in any specific response or objection, does not waive any of the General Objections. The Debtors’ failure to object to a specific Interrogatory on a particular ground shall not be construed as a waiver of their right to object on any ground.

The Response is made to the best of the Debtors’ knowledge at the present time, and the Debtors explicitly reserve the right to revise, amend, correct, supplement, or clarify their responses and objections.

1. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they are not relevant generally to the Plan and specifically to any objection by the Crypto Creditors Ad Hoc Group to the confirmation of the Plan (“Plan Confirmation”), and are not proportional to the needs of the case, or purport to impose any obligation on the Debtors beyond that required or permitted by the Federal Rules, the

Bankruptcy Rules, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

2. The Debtors further object on the grounds that the Interrogatories are untimely under the *Order Authorizing Debtors' Motion to Approve (I) the Adequacy of Information in the Disclosure Statement, (II) Solicitation and Voting Procedures, (III) Forms of Ballots, Notices, and Notice Procedures in Connection Therewith, and (IV) Certain Dates with Respect Thereto*, ECF No. 1027 (the "Disclosure Statement Order"), which established the last day to serve discovery requests as December 27, 2023.

3. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they are overly broad, unduly burdensome, and unreasonably duplicative or cumulative.

4. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they are unduly burdensome because they purport to seek information whose likely benefit would be outweighed by the burden and expense of providing such information in light of the limited resources and administrative capacities of the Debtors.

5. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they seek information that is already in the Crypto Creditors Ad Hoc Group or its counsel's possession, custody, or control, including as provided to the Crypto Creditors Ad Hoc Group by the Debtors' advisors; that are publicly available; or that is available to the Crypto Creditors Ad Hoc Group from sources other than the Debtors for which responding to the Interrogatories would be more convenient, less expensive, or less burdensome than responding would be for the Debtors.

6. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they are vague, ambiguous, require the Debtors to speculate as to the information the Crypto Creditors Ad Hoc Group seeks or lack sufficient precision to allow the Debtors to formulate an appropriate response.

7. The Debtors object to the Interrogatories to the extent they seek a response based on information from sources that are not reasonably accessible because of undue burden or cost.

8. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they seek “any” and “all” information under circumstances in which a subset of all information would be sufficient to show the pertinent information, on the grounds that such Interrogatories seeking “any” and “all” information are overly broad, unduly burdensome, and unnecessarily duplicative and cumulative.

9. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they seek information protected by the attorney-client privilege, the work product doctrine or any other applicable privilege or protection from discovery (“Privileged Information”). Information covered by such privileges is not subject to disclosure and, therefore, the Interrogatories will not be construed to seek such information. Any inadvertent disclosure of any information or document or communication protected by such privileges shall not be deemed or construed a waiver of any privilege, immunity, protection, or right of the Debtors, and the Debtors reserve their rights to demand that the Crypto Creditors Ad Hoc Group return to the Debtors any such documents and all copies thereof.

10. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they imply the existence of facts or circumstances that do not or did not exist and insofar as they state or assume legal conclusions. Nothing contained in any response

herein, nor the production of any document and communication or information, shall be deemed to be an admission, concession or waiver by the Debtors as to any question of fact or law at issue pertaining to the Plan or Plan Confirmation.

11. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, insofar as they purport to seek information that is not reasonably accessible and which the Debtors cannot attempt to access without incurring significant burden and expense, including but not limited to data existing on media used for the purpose of system recovery, disaster recovery or information restoration, including system recovery backup tapes, continuity of operations systems and data or system mirrors or shadows, if such data are routinely purged, overwritten or otherwise made not reasonably accessible in accordance with an established routine system maintenance policy. Retrieval of any such material would not be proportional to the needs of the case in light of the accompanying cost and the Debtors' difficulty in retrieving and searching such information.

12. The Debtors object to the Interrogatories to the extent they seek an answer involving an opinion or contention and the basis for that opinion or contention, which is improper at this stage of this contested matter.

13. The Debtors object to the Interrogatories to the extent they seek trade secrets or information unrelated to the Plan and Plan Confirmation that is (i) confidential, proprietary, or commercially or competitively sensitive to the Debtors and/or their affiliates, employees, clients, customers, or counterparties; (ii) subject to privacy laws, protective orders, nondisclosure agreements, or other confidentiality undertakings, including any protective order entered in the Bankruptcy or the *Order Appointing Mediator*, ECF No. 279; or (iii) otherwise prohibited from disclosure by law.

14. The Debtors object to the Interrogatories on the grounds that the lack of a relevant time period renders the Interrogatories overly broad and unduly burdensome, and calls for the inclusion of information that is not relevant to the subject matter of Plan Confirmation. Unless otherwise specified, the Debtors define the relevant period to be July 1, 2023 to January 4, 2024 for all Interrogatories (the “Relevant Time Period”).

15. The Debtors object to the Interrogatories, including the definitions and instructions contained therein, as overly broad, unduly burdensome, and improperly demanding responses that are not proportional to the needs of the case, insofar as they purport to require the Debtors in the course of responding to the Interrogatories to collect or review documents, communications, and information from custodians who do not possess non-duplicative documents, communications, or information reasonably calculated to lead to the discovery of admissible evidence or insofar as they would require the Debtors to collect or review documents, communications, and information not captured by the application of reasonable search criteria. Where the Debtors agree to provide information, it will be based only on responsive, non-privileged information (“Non-Privileged Information”), if any, located through a reasonable and diligent search of the reasonably accessible files or of relevant custodians expected to be in the possession, custody, or control of responsive and non-duplicative documents, communications, or information, limited to the Relevant Period (a “Reasonable Search”).

OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

16. The Debtors object to the Definitions to the extent they purport to extend beyond a reasonable scope and/or their natural meaning. The Debtors will interpret the Interrogatories reasonably and in good faith in accordance with common English usage as supplemented by their understanding of the common meanings of terms.

17. The Debtors object to the definitions of “Debtors,” “Genesis,” “You,” and “Your” to the extent that they include “predecessors, successors, subsidiaries, partners, principals, officers, directors, attorneys, managers, professionals, and other advisors, agents, employees, representatives, and persons acting or purporting to act on their behalf” on the grounds that the definitions are overbroad, unduly burdensome, and not proportional to the needs of the Plan and Plan Confirmation. The Debtors further object to the definitions of “Debtors,” “Genesis,” “You,” and “Your” to the extent that they seek the discovery of information that is not relevant to the Plan and Plan Confirmation, seek the discovery of information that is not under the Debtors’ custody or control, and seek the discovery of Privileged Information or information that could otherwise be protected from discovery.

18. The Debtors object the definition of “Document(s)” to the extent that it seeks the discovery of information that is not relevant to the Plan Confirmation, seeks the discovery of information based on sources that are not under the Debtors’ possession, custody, or control, and seeks the discovery of Privileged Information or information that could otherwise be protected from discovery. The Debtors further object to the definition of “Document(s)” to the extent that it seeks the discovery of information based on internal Documents from the Debtors’ agents, advisors, or attorneys, or based on privileged Communications between the Debtors and their agents, advisors, or attorneys.

19. The Debtors object to Instruction 8, that “You are required to identify all non-privileged, responsive information in Debtors’ possession, custody, or control, wherever located, including, without limitation information in the custody of Debtors’ employees, agents, representatives, consultants, attorneys, auditors, accountants, consultants, or any other person(s) now or heretofore under the control of the foregoing or acting or purporting to act on its behalf,”

on the grounds that it is vague, overbroad, unduly burdensome, and not proportional to the needs of the Plan Confirmation.

20. The Debtors object to Instruction 13 to the extent it purports to require the Debtors to “identify all Documents that Debtors reviewed or relied upon in answering the Interrogatory,” on the basis that it seeks the discovery of Privileged Information or information that could otherwise be protected from discovery or subject to the *Order Granting the Debtors’ and the Official Committee of Unsecured Creditors’ Motion for Entry of an Order Requiring the Redaction of Certain Personally Identifiable Information*, ECF No. 694 (the “Redaction Order”). The Debtors further object on the grounds that such an obligation is overly broad, unduly burdensome and purports to impose obligations beyond those required by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, the Local Rules of this Court or other rules or practices applicable to cases in this Court.

18. Subject to, and without waiving any objections, the Debtors specifically object and respond to each Interrogatory below.

SPECIFIC RESPONSES AND OBJECTIONS

Interrogatory No. 1:

Identify each person and entity that is a Released Party.

Response to Interrogatory No. 1:

The Debtors object to this Interrogatory to the extent it seeks information already provided to or known by the Crypto Ad Hoc Group. The Debtors further object to this Interrogatory to the extent it is cumulative and duplicative of, and seeks information that has been provided in the Plan, *Genesis Crypto Creditors Ad Hoc Group’s Requests For Production of Documents to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific Pte. Ltd.*, dated December 27, 2023 (“Crypto Ad Hoc Group’s RFPs”). The Debtors further object to this

Interrogatory on the grounds that it calls for publicly available information, including information in the Plan, the *Amended Disclosure Statement with Respect to the Amended Joint Plan of Genesis Global Holdco, LLC et al., Under Chapter 11 of the Bankruptcy Code*, ECF No. 1031 (the “Disclosure Statement”) and Exhibit F of the *Notice of Filing of Plan Supplement for the Debtors’ Amended Joint Chapter 11 Plan*, ECF No. 1117.

Subject to and without waiving the General Objections and Specific Objections, the Debtors are willing to meet and confer regarding this Interrogatory.

Interrogatory No. 2:

Provide a description of the investigation(s) conducted Concerning each Released Party, including the identities of the Person(s) that conducted the investigation, the number of Documents reviewed, number of interviews conducted, the causes of action investigated, the findings of the investigation, and identify any investigative reports or memorandum containing the findings of the investigation.

Response to Interrogatory No. 2:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory to the extent that it seeks Privileged Information. The Debtors further object to this Interrogatory on the grounds that it calls for publicly available information, including information in Disclosure Statement.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 3:

Provide a description of the investigation(s) conducted Concerning each Released Genesis Personnel, including the identities of the Person(s) that conducted the investigation, the number of Documents reviewed, number of interviews conducted, the causes of action investigated, the findings of the investigation, and identify any investigative reports or memorandum containing the findings of the investigation PSA.

Response to Interrogatory No. 3:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory to the extent that it seeks Privileged Information. The Debtors further object to this Interrogatory on the grounds that it calls for publicly available information, including information in Disclosure Statement.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 4:

For each Released Party, Released Genesis Personnel, and Special Committee member, Identify the reasons for the Releases, including the benefit the Estate will receive from providing the Releases.

Response to Interrogatory No. 4:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory to the extent that it seeks Privileged Information. The Debtors further object to this Interrogatory on the grounds that the Crypto Ad Hoc Group have exceeded the number of allowable interrogatories, including subparts, permitted by the Disclosure Statement Order.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 5:

Identify the anticipated value of the Estate's litigation claims against each of the Released Parties and each of the Released Genesis Personnel.

Response to Interrogatory No. 5:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory to the extent that it seeks Privileged Information. The Debtors further object to this Interrogatory on the grounds that the Crypto Ad Hoc Group have exceeded the number of allowable interrogatories, including subparts, permitted

by the Disclosure Statement Order.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 6:

Identify all payments, transfers, or compensation of any kind in fiat or crypto received by each Released Party and each Released Genesis Personnel in the two years prior to the Petition Date.

Response to Interrogatory No. 6:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory on the grounds that the Crypto Ad Hoc Group have exceeded the number of allowable interrogatories, including subparts, permitted by the Disclosure Statement Order.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 7:

Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in the 3AC MLAs.

Response to Interrogatory No. 7:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory on the grounds that the Crypto Ad Hoc Group have exceeded the number of allowable interrogatories, including subparts, permitted by the Disclosure Statement Order.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 8:

Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in the Pledge Agreements.

Response to Interrogatory No. 8:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory on the grounds that the Crypto Ad Hoc Group have exceeded the number of allowable interrogatories, including subparts, permitted by the Disclosure Statement Order.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 9:

Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in the DCG Loans.

Response to Interrogatory No. 9:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory on the grounds that the Crypto Ad Hoc Group have exceeded the number of allowable interrogatories, including subparts, permitted by the Disclosure Statement Order.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

Interrogatory No. 10:

Identify all Persons who conducted diligence on, agreed to, or was otherwise involved in any decision to purchase, sell, pledge, liquidate, not liquidate, or hold the Grayscale Bitcoin ETF.

Response to Interrogatory No. 10:

The Debtors object to this Interrogatory as overbroad, unduly burdensome, and not proportional. The Debtors further object to this Interrogatory on the grounds that the Crypto Ad Hoc Group have exceeded the number of allowable interrogatories, including subparts, permitted by the Disclosure Statement Order.

For the foregoing reasons, the Debtors will not provide a response to this Interrogatory.

WITH RESPECT TO ALL
RESERVATION OF RIGHTS
AND OBJECTIONS

GENESIS GLOBAL HOLDCO, LLC
GENESIS GLOBAL CAPITAL, LLC
GENESIS ASIA PACIFIC PTE. LTD
By its attorneys,

Dated: January 30, 2024
New York, New York

/s/ Thomas S. Kessler
Sean A. O'Neal
Luke A. Barefoot
Jane VanLare
Thomas S. Kessler
Andrew Weaver
CLEARY GOTTlieb STEEN & HAMILTON LLP
One Liberty Plaza
New York, New York 10006
Telephone: 212-225-2000

EXHIBIT 8

Emails Exchanged Between McDermott and Cleary, Dated January 30, 2024

From: [Ribeiro, Christian](#)
To: [Evans, Joseph](#); [Azman, Darren](#); [Steinman, Gregg](#); [Griffith, Greer](#); [Ray, Cris](#); [Gibson, Matthew](#)
Cc: [Kessler, Thomas](#); [O'Neal, Sean A.](#); [VanLare, Jane](#); [Weaver, Andrew](#); [Team-Genesis-Plan-Associates-CGSHOnly](#)
Subject: Genesis | Debtors' First Production
Date: Tuesday, January 30, 2024 10:50:58 PM
Attachments: [GENESIS CCG CONF V001.zip](#)

Some people who received this message don't often get email from cribeiro@cgsh.com. [Learn why this is important](#)

[External Email]

Counsel,

Please see attached. Password has been provided under separate cover.

Best,
Christian

Christian Ribeiro
Cleary Gottlieb Steen & Hamilton LLP
Assistant: jvitale@cgsh.com
One Liberty Plaza, New York NY 10006
T: +1 212 225 2701
cribeiro@cgsh.com | clearygottlieb.com

This message is being sent from a law firm and may contain confidential or privileged information. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy.

Throughout this communication, "Cleary Gottlieb" and the "firm" refer to Cleary Gottlieb Steen & Hamilton LLP and its affiliated entities in certain jurisdictions, and the term "offices" includes offices of those affiliated entities. Our external privacy statement is available at: <https://www.clearygottlieb.com/footer/privacy-statement>

EXHIBIT 9

Emails Exchanged Between McDermott and Cleary, Dated February 20-21, 2024

From: [Kessler, Thomas](#)
To: [Griffith, Greer](#); [VanLare, Jane](#); [Weaver, Andrew](#); [Kowiak, Michael](#); [Kim, Hoori](#); [Hatch, Miranda](#); [Levy, Jennifer](#)
Cc: [Azman, Darren](#); [Evans, Joseph](#); [Steinman, Gregg](#); [Herbert, Campbell](#); [Ray, Cris](#); [Gibson, Matthew](#)
Subject: RE: In re Genesis Global Holdco - Cooperation Agreements
Date: Wednesday, February 21, 2024 12:09:27 PM

[External Email]

Greer,

We anticipating having a further update on this in short order, but are not in a position at this moment to provide further details.

Thanks,
Tom

Thomas S. Kessler
Cleary Gottlieb Steen & Hamilton LLP
Assistant: ithompson@cgsh.com
One Liberty Plaza, New York NY 10006
T: +1 212 225 2884
tkessler@cgsh.com | clearygottlieb.com
Pronouns: he/him/his

From: Griffith, Greer <Ggriffith@mwe.com>
Sent: Tuesday, February 20, 2024 3:56 PM
To: VanLare, Jane <jvanlare@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>; Kim, Hoori <hokim@cgsh.com>; Hatch, Miranda <mhatch@cgsh.com>; Levy, Jennifer <jlevy@cgsh.com>
Cc: Azman, Darren <Dazman@mwe.com>; Evans, Joseph <Jbevans@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>; Herbert, Campbell <cherbert@mwe.com>; Ray, Cris <cray@mwe.com>; Gibson, Matthew <Mgibson@mwe.com>
Subject: In re Genesis Global Holdco - Cooperation Agreements

Counsel,

Paragraph 72 of the *Memorandum of Law in Support of Confirmation and Omnibus Reply to Objections to Confirmation of the Plan of Reorganization of Genesis Global Holdco, LLC Et Al., Under Chapter 11 of the Bankruptcy Code* [Doc. 1330] states that “The Debtors intend to modify the Plan to provide releases only to those Released Genesis Personnel who agree to cooperate with assisting with litigation of the Retained Causes of Action by the Wind-Down Debtors (such agreements, the “Cooperation Agreements”), which will be critical to the resolution of litigation against DCG and Gemini as well as enforcement actions relating to the Debtors’ pre-petition business.”

Please advise when Debtors intend to make this modification to the Plan. In addition, please send us the form Cooperation Agreements you plan on having Released Genesis Personnel execute.

Best,
Greer

GREER GRIFFITH

Partner

McDermott Will & Emery LLP One Vanderbilt Avenue, New York, NY 10017-3852

Tel +1 212 547 5578 **Mobile** +1 215 913 1418 **Email** ggriffith@mwe.com

Biography | **Website** | **vCard** | **LinkedIn**

This message is a PRIVATE communication. This message and all attachments are a private communication sent by a law firm and may be confidential or protected by privilege. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of the information contained in or attached to this message is strictly prohibited. Please notify the sender of the delivery error by replying to this message, and then delete it from your system. Our [Privacy Policy](#) explains how we may use your personal information or data and any personal information or data provided or made available to us. Thank you.

Please visit <http://www.mwe.com/> for more information about our Firm.

This message is being sent from a law firm and may contain confidential or privileged information. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy.

Throughout this communication, "Cleary Gottlieb" and the "firm" refer to Cleary Gottlieb Steen & Hamilton LLP and its affiliated entities in certain jurisdictions, and the term "offices" includes offices of those affiliated entities. Our external privacy statement is available at: <https://www.clearygottlieb.com/footer/privacy-statement>

EXHIBIT 10

Emails Exchanged Between McDermott and Cleary, Dated February 16-19, 2024

From: Kessler, Thomas <tkessler@cgsh.com>
Sent: Monday, February 19, 2024 6:19 PM
To: Griffith, Greer; Kim, Hoori
Cc: Hatch, Miranda; VanLare, Jane; Weaver, Andrew; Kowiak, Michael; Levy, Jennifer; Azman, Darren; Evans, Joseph; Steinman, Gregg; Barrett, Lucas; Herbert, Campbell; Ray, Cris; Gibson, Matthew
Subject: RE: Confirmation Hearing Schedule

[External Email]

Greer –

While reserving all rights and without waiver of our objections to MWE's requests for production, we intend to produce minutes from special committee meetings to the extent responsive to the second set of requests.

Regards,
Tom

Thomas S. Kessler
Cleary Gottlieb Steen & Hamilton LLP
Assistant: ithompson@cgsh.com
One Liberty Plaza, New York NY 10006
T: +1 212 225 2884
tkessler@cgsh.com | clearygottlieb.com
Pronouns: he/him/his

From: Griffith, Greer <Ggriffith@mwe.com>
Sent: Monday, February 19, 2024 6:07 PM
To: Kim, Hoori <hokim@cgsh.com>
Cc: Hatch, Miranda <mhatch@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Levy, Jennifer <jlevy@cgsh.com>; Azman, Darren <Dazman@mwe.com>; Evans, Joseph <Jbevans@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>; Barrett, Lucas <lbarrett@mwe.com>; Herbert, Campbell <cherbert@mwe.com>; Ray, Cris <cray@mwe.com>; Gibson, Matthew <Mgibson@mwe.com>
Subject: RE: Confirmation Hearing Schedule

Yes along with the issue concerning production of the Special Committee meeting minutes and notes unless you are able to confirm that these will be sent to the CCAHG.

Best,
Greer

GREER GRIFFITH
Partner

McDermott Will & Emery LLP One Vanderbilt Avenue, New York, NY 10017-3852
Tel +1 212 547 5578 **Mobile** +1 215 913 1418 **Email** ggriffith@mwe.com
Biography | **Website** | **vCard** | **LinkedIn**

From: Kim, Hoori <hokim@cgsh.com>
Sent: Monday, February 19, 2024 6:05 PM
To: Griffith, Greer <Ggriffith@mwe.com>
Cc: Hatch, Miranda <mhatch@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Levy, Jennifer <jlevy@cgsh.com>; Azman, Darren <Dazman@mwe.com>; Evans, Joseph <jbevans@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>; Barrett, Lucas <lbarrett@mwe.com>; Herbert, Campbell <cherbert@mwe.com>; Ray, Cris <cray@mwe.com>; Gibson, Matthew <Mgibson@mwe.com>
Subject: Re: Confirmation Hearing Schedule

You don't often get email from hokim@cgsh.com. [Learn why this is important](#)

[External Email]

Thanks. Do you mean including with respect to the documents that have been withdrawn by DCG and the UCC?

Best,
Hoori

On Feb 19, 2024, at 5:55 PM, Griffith, Greer <Ggriffith@mwe.com> wrote:

Thank you, Hoori. We plan on reaching out to the Court to raise these pending issues as it appears we are at an impasse for the reasons we previously have communicated.

GREER GRIFFITH
Partner

McDermott Will & Emery LLP One Vanderbilt Avenue, New York, NY 10017-3852

Tel +1 212 547 5578 **Mobile** +1 215 913 1418 **Email** ggriffith@mwe.com

Biography | **Website** | **vCard** | **LinkedIn**

From: Kim, Hoori <hokim@cgsh.com>
Sent: Monday, February 19, 2024 2:41 PM
To: Griffith, Greer <Ggriffith@mwe.com>; Hatch, Miranda <mhatch@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Levy, Jennifer <jlevy@cgsh.com>
Cc: Azman, Darren <Dazman@mwe.com>; Evans, Joseph <jbevans@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>; Barrett, Lucas <lbarrett@mwe.com>; Herbert, Campbell <cherbert@mwe.com>; Ray, Cris <cray@mwe.com>; Gibson, Matthew <Mgibson@mwe.com>
Subject: RE: Confirmation Hearing Schedule

You don't often get email from hokim@cgsh.com. [Learn why this is important](#)

[External Email]

Greer,

Following up on the second request, DCG and the UCC have withdrawn their requests to include those documents on the exhibit list. We will follow up further on the first request.

Best,

Hoori

Hoori Kim

Cleary Gottlieb Steen & Hamilton LLP
Assistant: casanchez@cgsh.com
One Liberty Plaza, New York NY 10006
T: +1 212 225 2392
hokim@cgsh.com | clearygottlieb.com

From: Kim, Hoori

Sent: Friday, February 16, 2024 8:08 PM

To: Griffith, Greer <Ggriffith@mwe.com>; Hatch, Miranda <mhatch@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Levy, Jennifer <jlevy@cgsh.com>

Cc: Azman, Darren <Dazman@mwe.com>; Evans, Joseph <jbevans@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>; Barrett, Lucas <lbarrett@mwe.com>; Herbert, Campbell <cherbert@mwe.com>; Ray, Cris <cray@mwe.com>; Gibson, Matthew <Mgibson@mwe.com>

Subject: RE: Confirmation Hearing Schedule

Greer,

We are considering these and will get back to you.

Best,

Hoori

Hoori Kim

Cleary Gottlieb Steen & Hamilton LLP
Assistant: casanchez@cgsh.com
One Liberty Plaza, New York NY 10006
T: +1 212 225 2392
hokim@cgsh.com | clearygottlieb.com

From: Griffith, Greer <Ggriffith@mwe.com>

Sent: Friday, February 16, 2024 5:11 PM

To: Kim, Hoori <hokim@cgsh.com>; Hatch, Miranda <mhatch@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kowiak, Michael <mkowiak@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Levy, Jennifer <jlevy@cgsh.com>

Cc: Azman, Darren <Dazman@mwe.com>; Evans, Joseph <jbevans@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>; Barrett, Lucas <lbarrett@mwe.com>; Herbert, Campbell <cherbert@mwe.com>; Ray, Cris <cray@mwe.com>; Gibson, Matthew <Mgibson@mwe.com>

Subject: RE: Confirmation Hearing Schedule

Counsel,

During the Deposition of Paul Aronzon on February 16, 2024, there were Special Committee Meeting Minutes that were introduced as exhibits. It is thus clear that the Special Committee kept meeting minutes and notes and that Debtors have produced these meeting minutes to other parties. Please produce all Special Committee meeting minutes, notes, and memos by **12 p.m., on Monday, February 19, 2024**. If you do not produce these documents by then, we will proceed to raise this as a discussion

point during the next Court hearing. To the extent privilege is claimed over any responsive documents, those documents must be disclosed in their entirety with any portions over which privilege is claimed redacted, and the basis on which such privilege is claimed noted.

These Special Committee documents are responsive to the *Genesis Crypto Creditors Ad Hoc Group's Second Requests for Production of Documents to Genesis Global Holdco, LLC, Genesis Global Capital, LLC, and Genesis Asia Pacific PTE. LTD*, dated January 17, 2024 (the "Second RFP"). The Second RFP sought, among other things, the production of documents "Concerning investigations of any Released Party, any Released Genesis Personnel, and any Special Committee member conducted by the Estate, the UCC, or any other Person" (Request No. 6), "Documents [...] Concerning disputes Concerning any of the Released Parties and any of the Released Genesis Personnel" (Request No. 8), "All Documents sufficient to assess the benefit the Estate will receive from providing the Releases" (Request No. 11) and "All Documents sufficient to assess the anticipate value of the Estate's litigation claims against each of the Released Parties and each of the Released Genesis Personnel." (Request No. 12). The Debtors' production obligations in connection with the Second RFP are also continuing. See Second RFP, Paragraph 5. Notwithstanding the clear scope of each of these requests, and the Debtors' continuing disclosure obligations, the Debtors did not produce any documents in response to any of those requests in their response of January 30, 2024. Nor have they produced any responsive documents since then. Indeed, to-date, the Debtors have produced only two—publicly available—documents.

Separately, we again reiterate our repeated request that we also immediately be sent all of the documents that were listed on the version of the exhibit list shared during the meet-and-confer, dated February 8, 2024, which are plainly relevant to Plan Confirmation. This is our seventh time making this request, with it most recently being discussed during my phone call with you yesterday. If these documents are not produced, we also will proceed with raising this as a discussion point during the next Court hearing.

DCG_SC00208763
DCG_SC00265705
DCG_SC00274421
DCG_SC00425927
DCG_SC00487223
DCG_UCC00006017
DCG_UCC00006030
DCG_UCC00006951
DCG_UCC00007319
DCG_UCC00009731
DCG_UCC00009872
DCG_UCC00010513
DCG_UCC00010519
DCG_UCC00011901
DCG_UCC00013077

DCG_UCC00013386
DCG_UCC00013639
DCG_UCC00013906
DCG_UCC00014699
DCG_UCC00015215
DCG_UCC00016114
DCG_UCC00018820
DCG_UCC00020385
DCG_UCC00022082
DCG_UCC00022814
DCG_UCC00023187
DCG_UCC00023242
DCG_UCC00023780
DCG_UCC00023895
DCG_UCC00023960
DCG_UCC00025676
DCG_UCC00027110
DCG_UCC00028122
DCG_UCC00029610
DCG_UCC00030305
DCG_UCC00038014
DCG_UCC00045100
DCG_UCC00045103
DCG_UCC00045198
DCG_UCC00047291
DCG_UCC00047361
DCG_UCC00047385
DCG_UCC00048312
DCG_UCC00048562
DCG_UCC00048974
DCG_UCC00051642
DCG_UCC00051892
GENESIS_DCG_00010665
GENESIS_DCG_00012630
GENESIS_DCG_00020077
GENESIS_DCG_00035386
GENESIS_DCG_00088209
GENESIS_DCG_00089201
GENESIS_DCG_00089560
GENESIS_DCG_00095980
GENESIS_DCG_00119282

GENESIS_DCG_00155030

GREER GRIFFITH

Partner

McDermott Will & Emery LLP One Vanderbilt Avenue, New York, NY 10017-3852

Tel +1 212 547 5578 **Mobile** +1 215 913 1418 **Email** ggriiffith@mwe.com

Biography | **Website** | **vCard** | **LinkedIn**

EXHIBIT 11

Email Sent by Cleary to McDermott, Dated February 20, 2024

From: Kowiak, Michael <mkowiak@cgsh.com>
Sent: Tuesday, February 20, 2024 10:39 PM
To: Azman, Darren <Dazman@mwe.com>; Evans, Joseph <Jbevans@mwe.com>; Griffith, Greer <Ggriffith@mwe.com>; Barrett, Lucas <lbarrett@mwe.com>; Steinman, Gregg <Gsteinman@mwe.com>
Cc: O'Neal, Sean A. <soneal@cgsh.com>; Barefoot, Luke A. <lbarefoot@cgsh.com>; VanLare, Jane <jvanlare@cgsh.com>; Weaver, Andrew <aweaver@cgsh.com>; Kessler, Thomas <tkessler@cgsh.com>; Massey, Jack <jamassey@cgsh.com>; Kim, Hoori <hokim@cgsh.com>
Subject: Genesis - Production from Debtors

[External Email]

Counsel,

Please find attached a production from the Debtors' plus an accompanying cover letter.

The password will be provided under separate cover.

Best,
Michael

Michael Kowiak
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza, New York NY 10006
T: +1 212 225 2929
mkowiak@cgsh.com | clearygottlieb.com

This message is being sent from a law firm and may contain confidential or privileged information. If you are not the intended recipient, please advise the sender immediately by reply e-mail and delete this message and any attachments without retaining a copy.

Throughout this communication, "Cleary Gottlieb" and the "firm" refer to Cleary Gottlieb Steen & Hamilton LLP and its affiliated entities in certain jurisdictions, and the term "offices" includes offices of those affiliated entities. Our external privacy statement is available at:
<https://www.clearygottlieb.com/footer/privacy-statement>